Agenda

for the

Planning & Amenity Committee Meeting

To be held at the Council Chambers, Civic Centre, Boxshall Street Brighton

on

Tuesday, 17 October, 2017 at 7.00pm

Chairperson: Cr Laurence Evans
Councillors: Cr Alex del Porto (Mayor)
            Cr Michael Heffernan
            Cr James Long BM JP
            Cr Clarke Martin
            Cr Rob Grinter
            Cr Sonia Castelli
Members of the Gallery

Your attention is drawn to Section 92 of Council's Governance Local Law No 1.

Section 92 The Chair’s Duties and Discretions

In addition to other duties and discretions provided in this Local Law, the Chair –

(a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community.

(b) may demand retraction of any inappropriate statement or unsubstantiated allegation;

(c) must ensure silence is preserved in the public gallery during any meeting

(d) must call to order any member of the public who approaches the Council or Committee table during the meeting, unless invited by the Chair to do so; and

(e) must call to order any person who is disruptive or unruly during any meeting.

An Authorised Officer must, if directed to do so by the Chairman, remove from a meeting any Councillor or other person who has committed such an offence.

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

Planning & Amenity Committee Charter
To deal with all matters relating to consideration of statutory planning, tree removal applications, traffic and parking matters.

This Committee has the full delegated authority of Council to finally determine upon planning applications.

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
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5. Confidential Business
   Nil
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<th>Date</th>
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<tbody>
<tr>
<td>Thursday 2 November 2017</td>
</tr>
<tr>
<td>Tuesday 14 November 2017</td>
</tr>
<tr>
<td>Thursday 30 November 2017</td>
</tr>
<tr>
<td>Monday 11 December 2017</td>
</tr>
<tr>
<td>Thursday 21 December 2017</td>
</tr>
</tbody>
</table>
1. **Apologies**

2. **Declarations of Interest**

3. **Adoption and Confirmation of the minutes of previous meeting**
   
   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 28 September 2017.
4. **Matters of Decision**

4.1 **29-39 GROSVENOR ROAD AND 37 ST ANDREWS STREET, BRIGHTON**

**NOTICE OF DECISION TO GRANT A PLANNING PERMIT**

**APPLICATION NO: 5/2017/6/1 WARD: NORTHERN**

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/181951

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1. **Purpose and background**

To report a planning permit application for the alterations and additions to an existing education facility building, including the construction of a first and second floor level and the construction of a synthetic running track on land which has a combined area of 60,154 square metres (refer Attachment 1) at 29-39 Grosvenor Road, Brighton and 37 St Andrews Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Harding Architects Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>6 January 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>27 April 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-8 (Neighbourhood Residential Zone Schedule 3) – Buildings and works associated with a Section 2 Use (Education centre).

Clause 43.01-1 (Heritage Overlay Schedule - HO323, HO350 & HO547) – Demolition and Construct a building or construct or carry out works.

Clause 43.02-2 (Design and Development Overlay Schedule 3) – Buildings and works not otherwise exempt.

3. **Stakeholder Consultation**

**External referrals**

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

**Internal referrals**

The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

The application was not referred to Council’s Heritage Advisor because the proposed works are not to the buildings protected by the Heritage Overlay.

**Public notification**

The application was advertised pursuant to Sections 52(1) (a) and (d) of the *Planning and Environment Act 1987* and 13 objections were received from 11 households equating to a total of 11 objections. The following concerns were raised:

- Noise;
- Traffic & parking;
- Access;
- Construction traffic;
- Overlooking;
- Public access to Cramer Walk;
- Building height;
- Neighbourhood character;
- Heritage character;
- Advertised address of application;
- Loss of views;
- Precedence;
- Lighting overspill;
- Deteriorating boundary fencing;
- Stormwater runoff / flooding;
- Nature strip maintenance;
- Visual bulk; and
- Property values.

**Re-advertising**

The application was originally advertised by way of letters to adjoining owners and occupiers and five signs were erected on site at Cadby Street, Young Street, New Street and Grosvenor Street at key locations adjacent to the proposal. The advertising noted the site as 90 Outer Crescent, which is the address for Brighton Grammar.

The application was subsequently re-advertised as 29-39 Grosvenor Street and 37 St Andrews Street by way of letters and five signs to make it clearer where the proposed works are located, given the school encompasses such a large land area.

**Consultation meeting**

A consultation meeting was held on the 5 June 2017 and attended by the applicant, a representative of the school and 10 objectors. The following issues were discussed at the meeting:

- Screening/ frosted glazing for windows facing Cadby Street properties;
- Screening along boundary with Cadby Street properties;
- Finished colour of proposed building;
- Boundary fencing;
- Noise/ acoustic properties;
- Hours of use;
- Building height – does not accord with DDO3 objective; and
- Drainage.

As a result of this meeting no objections were withdrawn.
4. **Recommendation**

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as 29-39 Grosvenor Street and 37 St Andrews Street, Brighton for the **additions and alterations to an existing education facility building, including construction of a first and second floor, construction of a synthetic running track and associated demolition in Design and Development Overlay 3 and Heritage Overlays** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application and advertised but modified to show:

   a) Metal perforated sunshade to the northern and western elevations to be a muted colour tone;

   b) The number of planters on the elevations to reflect the four planters on the ground floor plan;

   c) A Landscape plan in accordance with Condition 10 of this permit;

   d) A Parking and Traffic Management Plan in accordance with Condition 15 of this permit;

   All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

4. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

**Noise**

5. Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.


7. At the request of the Responsible Authority, the owner / occupier must undertake noise measurements by a suitably qualified acoustic consultant and a report must be submitted to the Responsible Authority for compliance in relation to N-2 policies and/or EPA Technical Guidelines.
8. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.

Vegetation
9. Prior to the endorsement of plans and pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must show:
   a) A survey, including botanical names, of all existing trees to be retained on the site.
   b) A survey, including botanical names, of all existing vegetation to be removed from the site.
   c) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   f) Details of surface finishes of pathways and driveways.

10. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Drainage
12. Prior to endorsement of the plans pursuant to Condition 1, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

   The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

13. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.

14. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

Traffic and Parking Management Plan
15. Prior to endorsement of the plans pursuant to Condition 1, a traffic and parking management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and adjacent to the site must conform to this endorsed plan. Three
copies of the plan must be submitted. The plan must be generally in accordance with the plan (specify any earlier submitted plan) but must include:

a) The location of all areas on-and/or off-site to be used for staff and patron parking.

b) Owner’s permission and any required planning permission for parking on other land.

c) Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.

d) The number and location of all on- and off-site security staff.

e) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.

f) Measures to discourage patron car parking in (specify location).

g) Measures to preclude staff parking in designated patron car parking areas.

h) Staffing and other measures to ensure the orderly departure and arrival of patrons especially any large groups departing at closing time.

i) Servicing of the drainage and maintenance of car parking areas.

**Construction Management**

16. Before the development starts, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

a) A detailed schedule of works including a full project timing.

b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.

c) The location for the parking of all construction vehicles and construction worker vehicles during construction.

d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.

e) Proposed traffic management signage indicating any inconvenience generated by construction.

f) Fully detailed plan indicating where construction hoardings would be located.

g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.

h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.
l) Restoration of any Council assets removed and/or damaged during construction.

m) Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.


q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.

r) Details of crane activities, if any.

17. This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.

b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

- The existing street trees must not be removed or damaged.

- This property is located in a Heritage Overlay and planning permission may be required to demolish or otherwise externally alter any existing structures. External alterations include painting an unpainted surface, but does not include re-painting an already painted surface.

- Council records indicate that there is a 3.0m wide drainage easement running through the property as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.”
5. **Council Policy**

    **Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.06 Built Environment and Heritage
- Clause 22.05 Heritage Policy
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.07 Discretionary Uses in Residential Areas
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.01 Heritage Overlay (HO323, HO350 & HO547)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule1)
- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines

6. **Considerations**

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. **Strategic Considerations**

Local Policy at Clause 21.10-1 specifically seeks to ensure there is adequate infrastructure to facilitate community and educational facilities within the Bayside area. Objective 1 of this policy seeks to, “To provide high quality public and private community facilities and services based on the needs and expectations of all age groups, including those with limited mobility and special needs”.

The proposed development is considered to result in a net community benefit, improving the quality of education facilities available within the municipality. It is noted that the
proposed works do not include any increases in staff or student number or intensity of the existing uses. The applicant has confirmed the proposed buildings are to provide improved facilities and greater diversity in classes only.

Accordingly, the proposed works seek to improve existing facilities to enhance the learning environment which the school wishes to provide to students. The proposal meets Clause 21.06-1 as it provides a facility to service the needs and expectations of the community.

6.2. Neighbourhood character

The subject site is not formally included within this Precinct, like many other Heritage properties and other educational facilities. Notwithstanding this, it is considered to be a useful tool to assess the appropriateness of the built form as it relates to the streetscape of New Street.

The site is located within Neighbourhood Character Precinct C1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character immediate area consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the surrounding area. The proposed works will sit comfortably within their context largely due to the proposed facades, roof form, appropriate setbacks, materials and finishes that are complementary to the existing and the preferred character of the area. The contemporary design of the proposed works provide a level of visual interest along with various forms of articulation along all boundaries. The various forms of external building materials including alucobond cladding and render assist in integrating the development in to the neighbourhood character.

The buildings setback from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed setback along with the amount of open space provides ample opportunity for the provision of landscaping, thus maintaining the vegetated character of the area.

On balance, it is considered that the proposal is respectful of both the prevailing and preferred neighbourhood character and appropriately responds to the characteristics of, vegetated streetscape, visual separation between buildings, and presentation to the abutting allotments.

The proposal includes circular planters adjacent to the southern elevation of the proposed works. Each planter contains a single canopy tree. It is noted the floor plans show four planters, while the elevations show two. A condition of approval is recommended to clarify this discrepancy.

The extent of planting is considered reasonable given no vegetation would be lost as part of the proposal and acknowledging the school usage of the site which places a premium on usable space. In order to further assist the developments compliance with the Neighbourhood Character Precinct C1, a landscape plan will be required as part of any permit issued.

It is noted the proposed synthetic running track at 37 St Andrews Street is located within Neighbourhood Character Precinct B2. Given the proposed running tracks location adjacent to an existing artificial turf, the running track is considered to fit into the existing character of the New Street frontage.
6.3. **Heritage**

The objectives of the Heritage Overlay are to conserve and enhance heritage places of natural and cultural significance, elements which contribute to the significance of a heritage place, and ensure that development does not adversely affect the significance of heritage places.

**Hall building**

The proposed buildings and works to create the new Hall building is located within Heritage Overlay HO547 covering Borwick House (formerly Wilson House). Borwick House was originally the offices for the Brighton Gas Company circa 1920. Borwick House is a double storey rusticated red brick building featuring classical revival detailing and rendered dressings to openings. The symmetrical front elevation comprises a projecting central section with a classically derived entrance portico surmounted by a balconette, flanked by bays of multi-paned double-hung sash windows. The hipped roof in terracotta tiles is partially concealed behind a brick pediment. The primary frontage of the building is its presentation to New Street.

Borwick House is of aesthetic and historical significance. The building is a good and substantially intact example of a classical revival style inter-war building. The building is also important as one of the only surviving remnants of the Brighton Gas Company works and is of some interest for its associated with Brighton Grammar School.

Borwick House has been altered to the rear and is connected to the two storey red brick main primary school building on the site to the south. The extension between the two buildings is setback from the frontage of Borwick House and maintains the proportions of the frontage; however it detracts from the character of the original heritage building. Tennis courts are adjacent to the north and an electrical substation is located just south of the front setback of the Borwick. A simple brick pier and black iron paling fence fronts Borwick House with curved red brick walls framing the pedestrian entrance gate. Planting is provided in the front setback, including four large canopy trees. The connected main primary school building, electrical substation and tennis courts are considered to encroach on the setting of Borwick House.

The proposed hall building would be located in excess of 50 metres from the original Borwick House building and in excess of 75 metres from New Street. The primary frontage of Borwick House is to New Street. While being larger than Borwick House at three storey and 10.7 metres in height, the proposal would not appear as a dominant element in the setting of Borwick House as viewed from New Street. In addition the significant separation distance limits any impact on the appearance and character of the heritage building. No impact to Borwick House is anticipated by the proposed development.

In terms of architectural character, the contemporary architectural style, built forms and materials of the proposed buildings are distinctly in contrast with the complex Italianate detailing of the significant Borwick House, thereby enabling its identity to remain clearly expressed in the context of more substantial modern buildings. The relatively fluid lines of the new structures and the simplicity of their elevational treatments, in particular the way in which they lean away from the historic building, will leave Borwick House as the architectural focus of its context.

**Running Track**

The proposed running track located at No.37 St Andrews Street, adjacent to New Street, falls within Heritage Overlays HO323 (Brighton Grammar School main building) and HO350 (St Andrews Parish Hall).

The Brighton Grammar School main building, located adjacent to St Andrews Street and Outer Crescent, is a double storey building in the Collegiate Gothic style. Walls are of roughcast render with smooth render quoins whilst the three-storey castellated tower is
of clinker brickwork with red brick quoining. The hipped roof is clad in terracotta tiles and windows are timber framed, double-hung and hopper sashes. The Brighton Grammar School main building is of aesthetic and historical significance. Also of interest on the site are the Memorial Hall, Rosstrevor building and the HMAS Make-Believe memorial.

St Andrews Parish Hall, constructed in 1924, is a single storey symmetrical clinker brick building with a cement tile roof that features a number of arts and crafts elements. The roof form comprises a central broad gable with a jerkinhead bellcote with separate hipped roofs over flanking pavilions. The street front has a central bay with a stepped parapet, and three windows flanked by enclosed entrance porches with rendered heads. The hip-roofed wings feature five narrow window openings with low splayed sills and timber-framed casement sashes. The gable end windows feature pointed arched heads and brick lintels. The primary frontage of the proposed is to St Andrews Street. The St Andrews Parish Hall is of aesthetic and historical significance.

The proposed running track would be located in excess of 100 metres from the rear of the hall and has significant built form separating the two. The proposed running track would have no impact on the appearance, character or setting of the St Andrews Parish Hall. The running track (sports field) is substantially separated from The Brighton Grammar School main building and adjacent to New Street will have limited impact to the abutting allotments.

Having reviewed the submitted documents the proposal satisfies the requirements of the planning scheme and Council guidelines.

In summary:

- The proposed setbacks are considered acceptable as they respect existing natural garden settings and neither dominate nor obscure views or sight lines within immediate area;
- The proposed development reflects the predominant heights and proportions of houses in the immediate vicinity;
- The overall scale of the finished building is considered to be consistent with the scale of other nearby properties of contributory significance;
- The proposal ensures that the built form on the property remains obscured and subordinate to the landscape;
- Site lines are considered to be minimal due to the location of the extension.

6.4. **Design and Development Overlay – Schedule 3**

The Design and Development Overlay Schedule 3 (DDO3) provides a series of design objectives and decision guidelines that are relevant to this assessment. They predominantly revolve around height and scale, siting and setbacks, landscaping and character. These issues are discussed below:

**Height and scale**

The proposed hall building would be located in excess of 50 metres from the original Borwick House building and in excess of 75 metres from New Street. The primary frontage of Borwick House is to New Street. While being larger than Borwick House at three storey and 10.7 metres in height, the proposal would not appear as a dominant element in the setting of Borwick House as viewed from New Street due to its distance from street frontagae (78.30 metres).

The prevailing character of the area is one and two storeys. The Neighbourhood Residential Zone provides a maximum building height of 9 metres and two storeys for dwellings and residential buildings. As such the existing prevailing character height character is not anticipated to change. In this context the proposed three storey building to 10.7 metres in height with a substantial setback into the large school site is considered
to be an appropriate transitional increase in building height that is not more than one storey above the prevailing building height. Furthermore, the proposed development will maintain the prevailing streetscape rhythm and building scale as it will pose limited sightlines from the public realm. The 1.7 metres beyond the 9 metres preferred height is considered to be minimal as it will not be visible from any vantage points nor will it cast any additional overshadowing. Whist the overall height exceeds the 9 metres preferred height by 1.7 metres, the proposal is considered acceptable as the design response mitigates against the additional height and creates an appropriate transition between the abutting allotments.

Generally, the overall composition of the development when read in the streetscape together is not bulky and presents a proportioned design. The scale and massing of the development now to the existing neighbourhood character.

**Siting and setbacks**

It is noted that an assessment against ResCode is not relevant to the proposal, and is used as a guideline only. As outlined in the table below, the proposal comfortably complies with the setback standards in ResCode, even when the Bayside Clause 54 standards are applied.

<table>
<thead>
<tr>
<th>Required setback</th>
<th>Proposed setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern (rear)</td>
<td>12.58 metres</td>
</tr>
<tr>
<td>East (side)</td>
<td>11.32 metres</td>
</tr>
<tr>
<td>West (side)</td>
<td>11.32 metres</td>
</tr>
</tbody>
</table>

**Landscaping**

Landscaping is discussed in Section 6.6 of this report to follow.

**Materials and colours**

The proposed extension to the existing school hall represents a contemporary design approach that would contrast with the existing school hall while drawing a number of elements from the existing single story building that would provide a degree of integration between the extension and fabric of the existing building.

The proposal would feature Alucobond anthracite grey cladding to south and east elevations. This cladding is separated on the southern elevation into five components by a continuation of the four columns up through the façade to the parapet line reducing its mass. Eight bays of windows set between these columns with openable perforated cladding would further break up the mass of this elevation.

A skin of perforated metal sunshade panels finished in gold pearl is proposed to the north and west elevations. These semi-transparent panels would lighten the appearance of the north and western elevations and allow views through to the fully glazed first and second floor elevations. It is noted the northern elevation and to a lesser extent the western elevation is the primary interface with residential properties and would be visible between and above properties from Cadby Street. Steel fire escape stairs would sit behind the gold pearl perforated panels but external to the glazing on the western elevation.

The proposal would feature a flat roof with an Alucobond anthracite grey parapet around the perimeter of the building. This would form a strong contrast to the gold perforated sunshade panels to the north and west elevations. The rendered columns on the northern elevation would continue up to be visually supporting this parapet.

The grey Alucobond parapet, rendered columns and powder coated windows finished in monument – would not be out of character from the residential streetscape - very similar to the recently constructed new single dwelling at No.15 Cadby Street (2015/583/1).
The gold pearl perforated screens, visible between and above dwellings from Cadby Street would appear as incongruous elements in the Cadby Street streetscape. A condition of approval is recommended for this perforated metal screen to be a more muted colour tone.

6.5. **Car parking and traffic**

The purpose of the Car Parking clause is to ensure the provision of an appropriate number car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality, to support sustainable transport alternatives, to promote the efficient use of car parking spaces through the consolidation of car parking facilities, to ensure that car parking does not adversely affect the amenity of the area, and to ensure that the design and design of car parking is of a high standard.

An assessment pursuant to the requirements of Clause 52.06 is not required as there is:

- No increase in staff or students number associated with the proposal, and
- Not proposed to be used by people or groups other than Brighton Grammar (i.e. third parties).

6.6. **Vegetation & Landscaping**

The proposed development located within the main grounds does not proposed to remove any vegetation as the proposed works will be conducted within the existing footprint of the school.

Vegetation removal for the provision of the running track is proposed, however it is noted that that no trees are protected by any statutory planning overlay. Nevertheless, the trees on site are protected by Local Laws, a permit for their removal has already been approved.

Although no tree removal is proposed as part of this application, replanting of landscaping should occur on site to ensure the landscape character of the neighbourhood is retained and enhanced. There is ample opportunity on the site for planting. Accordingly, a condition of permit is included to ensure an appropriate landscape plan is provided.

6.7. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Drainage**

The proposal was referred to Council’s Drainage Engineers who raised no concerns with the proposal from a drainage perspective.

**Noise**

As previously mentioned, the consideration of this planning application is confined to the proposed buildings and works. The use does not require a planning permit. The noise levels generated by the development will not be any more than the existing operations on site. The facility is currently a hall and operations will remain unchanged. Notwithstanding this, standard noise conditions have been placed in the recommended conditions.

Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and is not considered as justification to refuse the proposal.

**Construction Concerns**

Construction techniques and effects – noise, dust, stability of existing foundations and damage to nearby dwellings are not a consideration under the Planning & Environment
Act or Bayside Planning Scheme. The developer will however be required to meet relevant Building regulations, Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

A Construction Management Plan is included as a condition of permit to mitigate any impacts.

Public access to Cramer Walk

No alteration to public access is proposed as part of this application.

Loss of views

Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view.

Precedence

Future planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment. The possibility of setting an undesirable precedent cannot be substantiated and is not a relevant planning consideration.

Lighting overspill

The lighting proposed is low level security lighting, bunker style. This is noted on drawing 1617 TP 05A & 06A.

Deteriorating boundary fencing

The dividing fence between residents is considered to be a civil matter and therefore falls outside the realms of this planning application.

Nature strip maintenance

The maintenance of the nature strip falls under the responsibility of Councils asset management team and therefore outside the scope of this planning application.

Property values

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Bayside Planning Scheme.

Support Attachments

1. Development Plans
2. Site Surrounds and Imagery
3. Neighbourhood Character (Precinct C) Assessment
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td></td>
</tr>
</tbody>
</table>
Figure 2 View of existing School Hall from South-east

Figure 3 View of existing School Hall from North-west
Figure 4 View of existing School Hall from North-west

Figure 5 View towards existing School Hall from Grosvenor Street looking North
Figure 6 View towards existing School Hall from New Street looking West

Figure 7 View towards existing School Hall from Young Street looking East
Figure 8 View towards existing School Hall from Cadby Street looking South

Figure 9 View towards existing School Hall from Cadby Street looking South
Figure 10 View of interface between subject site and No.11/ 11A Cadby Street

Figure 11 View of interface between subject site and No.15 Cadby Street
Figure 12 View of interface between subject site and No.17, 19 and 23 Cadby Street

Figure 13 View of location of proposed synthetic running track from New Street
# ATTACHMENT 3

## Neighbourhood Character Policy (Precinct C1)

### Preferred Future Character

The mix of dwelling styles, including a substantial presence of pre WW2 dwellings, sit within spacious gardens and do not dominate or overwhelm the streetscape. Garden plantings, and well-articulated façades and roof forms, assist in minimising the dominance of buildings from within the street space, as well as providing visual interest. Front setbacks allow planting of substantial trees and shrubs and side setbacks on both sides maintain a sense of spaciousness in the area. Trees are a mixture of exotic and natives, with an increasing frequency of traditional coastal and indigenous species, strengthening the visual connection of the area with the coast. Open style front fences retain an ability to view buildings from the street. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | - Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
  - Alterations and extensions should retain the front of these dwellings.                                                                 | Demolition of dwellings that contribute to the valued character of the Precinct.                                                                                                                                                                                                         | Not applicable                       |
| To maintain and enhance the spacious garden settings of the dwellings.     | - Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. Minimise impervious surfaces, particularly in the front garden.                                                                                                                                   | Lack of landscaping and substantial vegetation.                                                                                                                                                                               | Responds                             |
|                                                                           |                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                 |                                      |

*Responds*

The proposal includes circulator planters adjacent to the southern elevation of the proposed performing arts centre. Each planter contains a single canopy tree. It is noted the floor plans show four planters, while the elevations show two. A condition of approval is recommended to clarify this discrepancy.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To enhance the bayside vegetation character of the area.</td>
<td>Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible.</td>
<td>Removal of large native and coastal trees. Planting of environmental weeds.</td>
<td>The extent of planting is considered reasonable given no vegetation would be lost as part of the proposal and acknowledging the school usage of the site which places a premium on usable space.</td>
</tr>
<tr>
<td>To retain the sense of spaciousness in the area and provide adequate space for front gardens.</td>
<td>Buildings should be sited to allow space for the planting of trees and shrubs. Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Responds</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Responds</td>
<td>The proposal would not involve the loss of any existing vegetation. Refer to the Vegetation and Landscaping section of the report in relation to the previous tree removal from the New Street frontage of No.37 St Andrews Street.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposed extension to the existing School Hall to create a Performing Arts Centre would not undermine the sense of spaciousness of the area. The proposal would be located toward the middle of the site and would only be visible at a distance from any residential streetscape. The proposal would be visible between No.11 and 11A Cadby Street and above No.11A and 15 Cadby Street. However, the separation distance of in excess of 50 metres from Cadby Street would limit any impacts on the rhythm of this street scene or the sense of space that currently exists in Cadby Street. In this context the proposal would not detract from the existing sense of spaciousness and garden setting of the area.</td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
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<td>-----------------------------</td>
</tr>
</tbody>
</table>
| To minimise the dominance of car parking facilities, driveways and crossovers. | • Locate garages and car ports at or behind the line of the dwelling.  
• Minimise hard paving in front yards.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling.  
Loss of front garden space. | Not applicable |
| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess upper level elements from the front façade. | High pitched roof forms with dormer windows. | Responds  
Given the significant distances to the surrounding streets and the existing level of built form in these streets, the proposal would not dominate any streetscape. |
| To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. | The proposed Performing Arts Centre would be located within Heritage Overlay 547 (Borwick House). Refer to the Heritage section of the report for an assessment of the proposals impact on this heritage overlay. |
| To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting. | • Use a mix of materials including timber or other non-masonry wall materials in building design.  
• Use simple building details and articulate roof forms. | Large, poorly articulated external wall surfaces of one material only.  
Heavy materials and design detailing (eg. large masonry columns and piers). | Responds  
The proposal utilises a contemporary design that would contrast with the existing school hall, while using a number of design elements that draw from the existing school. The extension would sit over the existing single storey hall and be supported on rendered columns forming an overhang to the north, south and west elevations of the... |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>existing hall, thus providing a certain level of articulation. The supporting columns to the north and south elevations would correspond with the decorative columns in the brickwork of the existing school hall building. These columns provide a degree of integration between the architectural language of the existing hall building and the substantial two storey extension. Alucobond anthracite grey cladding to south and east elevations. This mass is separated on the southern elevation into five components by a continuation of the four columns up through the façade to the parapet line. Eight bays of windows between these columns with openable perforated cladding would further break up the mass of this elevation. The locations of the windows to the southern elevation at first and second floor level would be directly above the arched windows at ground floor level and provide a degree of coherence in the pattern of fenestration between the hall building and the proposed extension. The grey Alucobond cladding would contrast with the white/ yellow painted brickwork of the existing single storey school. Skin of perforated metal sunshade panels finished in gold pearl to the north and west elevations.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>----------------</td>
<td>------------------</td>
<td>-------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td><strong>To encourage the openness of the streetscape.</strong></td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>To create a visually interesting and attractive built form interface with the foreshore reserve,</strong></td>
<td>• Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies.</td>
<td>Buildings that have no relationship to the foreshore setting.</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

To encourage the openness of the streetscape.

- Provide open style fencing, other than along heavily trafficked roads.

To create a visually interesting and attractive built form interface with the foreshore reserve.

- Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies.

Lightens the appearance of the north and western elevation – with the interface with residential properties.

Flat roof with alucobond anthracite grey parapet around the perimeter of the building. This would form a strong contrast to the gold perforated sunshade panels to the north and west elevations. The rendered columns on the northern elevation would continue up to be visually supporting this parapet.

East elevation primarily alucobond cladding panels with regular spacing and five windows at second floor level.

The proposed development is considered to comply with the design objective as the proposed building will not mimic the immediate heritage area but rather create a differentiation between old and new whilst providing a number of a variety of building materials, finishes and design detail that complement the abutting area.

Buildings that have no relationship to the foreshore setting.

The proposal would not be visible from the foreshore reserve.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| Avoiding properties fronting the reserve and visible from the reserve. | - Verandahs, non-reflective glazing and light-transparent balustrading.  
- Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
- Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.  
- Provide articulated roof forms to create an interesting skyline when viewed from the beach. | Poorly articulated roof and building forms.  
Highly reflective materials or glazing.  
Blank walls facing the foreshore.  
Lack of distinction between public and private spaces along the foreshore. |
4.2 70 OAK STREET, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/762/1 WARD: SOUTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/209091

1. Purpose and Background
To report a planning permit application for the construction of two double-storey dwellings, removal of native vegetation in the Vegetation Protection Overlay (Schedule 3) and construction of a front fence with a height exceeding 1.2m on a lot with an area of 664 square metres (refer Attachment 1) at 70 Oak Street, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Kiril Architects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>18 January 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>23 March 2017</td>
</tr>
</tbody>
</table>

2. Policy Implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot and of a fence in excess of 1.2 metres in height.
Clause 42.02-2 (Vegetation Protection Overlay) - Removal of native vegetation.

3. Stakeholder Consultation
External referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

Internal referrals
The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Street Tree Arborist</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and two objections were received. The following concerns were raised:

- Overdevelopment of site;
- Does not respond to existing low residential density and landscaped garden character;
- Inconsistent with State and Local Planning Policies of the Bayside Planning Scheme;
- Inconsistent with Clause 55 of the Bayside Planning Scheme; and
• Loss of native vegetation and inadequate planting scheme.

Consultation meeting
A consultation meeting was offered to the applicant, but was declined.

4. Recommendation
That Council:
Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2016/762/1** for the land known and described as **70 Oak Street, Beaumaris** for the **construction of two double storey dwellings, removal of native vegetation in the Vegetation Protection Overlay (Schedule 3) and construction of a front fence with a height exceeding 1.2m** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and/or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans but modified to show:
   a) The garages set back 5.5m from the southern property boundary.
   b) The swimming pool in the north-west corner of the site deleted and Tree #5 (Eucalyptus leucoxylon – Yellow Gum) and Tree #6 (Ulmus glabra – Scotch Elm) shown as being retained.
   c) Any design changes arising from the recommendations of the Tree Management Plan (report) and Tree Protection Plan (drawing) required to ensure that Tree #10, located on the neighbouring property to the north (72 Oak Street) is retained long-term (refer Condition 8).
   d) The replacement of Tree #7 in the north-east corner of the site with either a Sheoak (Allocasuarina sp.) or Black Wattle (Acacia mearnsii) specimen.
   e) Splays 2m wide by 2.5m long provided in accordance with AS2890.1 where the driveway intersects with the footpath. Foliage and front and side fences must be a maximum 0.9m high.
   f) Dimensions of both vehicle crossovers to be 3m wide and separated with a minimum 0.8m wide separator.
   g) Retention of the existing corner splay (3m x 3m) in the south-west corner. All vegetation within the splay to be no greater than 0.9m high.
   h) A reduction in height of the parapet over the garage to 500mm.
   i) A variation to the colour palette of the garage doors to a lighter colour to soften the visual impact on the streetscape.
   j) Deletion of the boundary fencing along the northern and eastern boundaries from the development plans.
   k) An elevation plan at a scale of 1:50 showing the proposed fencing along Oak Street and Griffiths Street with a minimum 80% transparency for the picket fencing.
   l) Plant equipment located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
m) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).

n) Water sensitive urban design measures in accordance with Condition 4 of this permit.

o) A Landscaping plan in accordance with Condition 5 of this permit.

p) A Tree Management Plan in accordance with Condition 8 of this permit.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

a) The type of water-sensitive urban design stormwater treatment measures to be used.

b) The location of the water-sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry-accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

4. The water-sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

5. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Faulkner & Chapman, Tree retention/planting plan, dated 15.09.2017, drawn to scale with dimensions and three copies provided. The plan must show:

a) A survey, including botanical names of all existing trees to be retained on the site.

b) A survey, including botanical names of all existing vegetation to be removed from the site.

c) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.

d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

e) Plantings must be 80% indigenous by species type and count.
f) Tree #5 (Eucalyptus leucoxylon – Yellow Gum) and Tree #6 (Ulmus glabra – Scotch Elm) shown as being retained and the proposed swimming pool in the north-west corner of the site deleted.

g) Tree #7 (Fraxinus angustifolia – Desert Ash) shown as being replaced with a Sheoak (Allocasuarina sp.) or Black Wattle (Acacia mearnsii).

h) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

i) Details of surface finishes of pathways and driveways.

6. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

7. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

8. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009, prepared by a suitably qualified arborist and include:

a) Details of Tree Protection Zones for all tree to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site. In particular, the submitted report and drawing must assess the impacts on Tree #10, located on the neighbouring property to the north (72 Oak Street).

b) Comment on methods to be utilised and instruction on how to deploy them.

c) Comment on when the protection measures are to be deployed.

d) Comment on when the protection measures can be modified.

e) Process that will be followed if any damage occurs to a tree.

f) Process that will be followed if construction works require alteration to protection measures outlined in the report.

9. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

10. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.
11. A tree protection fence is required to protect the tree canopies of the two street trees on Griffiths Street (Melaleuca styphelioides - Prickly-leaved Paperbark, and Banksia marginata, Silver Banksia). The street tree protection fencing during development must be as follows:
   a) Fencing must be secured prior to demolition and maintained until all site works are complete.
   b) Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing must be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council-approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

12. Soil excavation must not occur within 3 metres from the edge of either the Melaleuca styphelioides (Prickly-leaved Paperbark) or the Banksia marginata (Silver Banksia) street tree assets’ stems at ground level.

13. Root pruning within the TPZ:
   • Prior to soil excavation for a Council-approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive, non-destructive techniques.
   • All roots that will be affected must be correctly pruned.

14. Installation of utility services within the TPZ
   • Any installation of services and drainage within the TPZ must be undertaken using root-sensitive, non-destructive techniques.

15. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

16. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.

17. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

18. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.
In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes

- Council records indicate that there is a 1.22m wide drainage and sewerage easement along the eastern property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build over Easement consent from the responsible Authority / Authorities.

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours’ notice is required.

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct D4)
- Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 42.02 Vegetation Protection Overlay
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Drainage Contributions Plan Overlay
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. **Considerations**

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1 **Neighbourhood character**

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The design of the proposed dwellings is contemporary, with good articulation and a varied palette of materials and colours. Setbacks are provided that allow for a suitable level of landscaping between buildings, and the proposed garages will be set back from the frontage such that they will not dominate the streetscape. The proposal is considered to be consistent with the preferred neighbourhood character for this precinct.

6.2 **Compliance with Clause 55 (ResCode)**

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-complying standards are discussed below.

**Side and Rear Setbacks (Standard B17)**

<table>
<thead>
<tr>
<th>Dwelling 1 Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dwelling 2 Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

The application proposes that the ground floor of Unit 2 be set back 2.02m from the eastern (rear) boundary, where a 3m setback is required to comply with the standard. It is also proposed to set back the Unit 2 upper floor 3.32m from the same boundary, where a setback of 4.92m is required. The neighbouring dwelling, at 60 Griffiths Street, is set back from the eastern boundary, with the closest point being a garage. The street elevation drawing submitted with the application demonstrates that the proposed setback of the upper floors of the two proposed new dwellings, and between the upper floors of
Unit 2 and the neighbouring dwelling at 60 Griffiths Street, will be consistent. This will serve to maintain the rhythm of spacious visual separation desirable in this neighbourhood, and to ensure that there is no adverse streetscape impact.

It is also noted that the new dwellings have a relatively low height - a maximum of 6.8m - which has the effect of creating a tapering of building height from the significantly higher dwelling at 60 Griffiths Street to the east, to the open expanse of the road intersection immediately to the west of the subject site.

As such, the level of non-compliance is not considered to adversely impact on the amenity of the neighbouring property or the streetscape, and a variation to the standard is considered acceptable. All other setbacks are complying.

Front fences (Standard B32)
The submitted plans propose a 1.8m high picket fence along the majority of the Griffiths Street frontage of the site. There are a variety of styles and heights of fences in the surrounding area. Planting is proposed in front of and behind the fence, which will provide a high level of screening and visual privacy, thus it will not be necessary for the fence to be mostly solid. A condition is recommended requiring the fence to be at least 80% visually permeable. This will help soften the fence’s visual impact within the streetscape.

Across the Oak Street frontage, a 1.6m high picket fence is proposed along the return from Griffiths Street. As per the above comments, this section of fencing will be required to be at least 80% visually permeable. The remainder of this boundary will have a fence comprised of lightweight panels to a height of 1.8m. This more solid fencing is required to provide privacy for the swimming pool. As it relates to only a short length of the boundary, it is considered acceptable in this instance.

6.3 Car parking and traffic
Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions. All recommendations are included as conditions of approval.

The level of increased traffic and parking demand generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4 Impact on street trees
There is a Melaleuca styphelioides (Prickly-leaved Paperbark) and a Banksia marginata (Silver Banksia) street tree asset fronting the property along Griffiths Street, where the crossovers are proposed. These are Trees #1 and 2, respectively, in the arborist’s report. Council’s Open Space Arborist has assessed the proposal and is satisfied that, subject to conditions, the proposed vehicle crossings will not adversely impact on the street trees.

6.5 Vegetation & landscaping
The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

The objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.
The application plans show the removal of five trees from the site including one tree protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with a ‘*’.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Tree #5</td>
<td>Nil</td>
<td>Trees #4 &amp; 6</td>
</tr>
</tbody>
</table>

The proposed development in its advertised form involves the removal of Tree #5, a *Eucalyptus leucoxylon*. This is a native Yellow gum tree with a height of 15m. The tree would not be able to be retained if the swimming pool for Unit 1 was to be constructed in its proposed location. The removal of the swimming pool from the proposal, as recommended in Condition 1(b) above, will render this aspect of the proposal redundant. It should also be noted that in the post-advertising period the applicant submitted an amended plan (refer landscape plan prepared by Faulkner & Chapman Landscape Design, dated 15/09/2017) changing the location and orientation of the pool to allow the tree to be retained.

The application proposes the removal of Tree #6, a Scotch Elm located in the north-west corner of the site. The applicant proposes a swimming pool in this location, designated as the secluded private open space of Unit 1. It is considered that the removal of the tree, and in particular the loss of future planting area that will result from the addition of a pool in that location, will be inconsistent with the objectives of the Vegetation Protection Overlay and adversely affect the amenity of the neighbourhood. A condition will be imposed requiring the swimming pool to be deleted from the proposal and Tree #6 to be retained. As mentioned above, the applicant submitted a landscaping plan after the proposal was advertised, showing the pool turned ninety degrees so as to allow Tree #5 (a native Eucalyptus) to be retained. However, under either development scenario, Tree #6 would need to be removed.

The application also proposes the removal of Tree #4, a mature *Liquidambar styraciflua*, from the south-west corner of the site, designated as the private open space of Unit 1. The removal of this tree is supported, as it has below-average health and the applicant has proposed to replace the tree with an indigenous *Banksia integrifolia*, a substantial canopy tree species.

The removal of the Desert Ash tree (Tree #7) in the site’s north-east corner, and its proposed replacement with a *Banksia integrifolia*, is supported by Council’s arborist. The arborist has also stated that the proposed *Banksia* may in fact be too large a species for this location, and a more appropriate choice may be a smaller species such as an indigenous Sheoak (*Allocasuarina sp.*.) or Black Wattle (*Acacia mearnsii*). A condition will be imposed requiring the Ash tree to be replaced with either one of these species.

Tree #10 is located on the neighbouring property to the north (72 Oak Street). This tree’s Tree Protection Zone (TPZ) falls partly within the subject site, and will need to be adequately protected to ensure its long-term survival. A condition will be imposed requiring the applicant to provide a Tree Management Plan (report) and Tree Protection Plan (drawing) that demonstrates this neighbouring tree can be retained. If changes to the development are recommended to achieve the tree’s retention, these will need to be made, in accordance with Condition 1(c).
The submitted landscape plan shows that there will be suitable soil volumes available for the proposed trees, including the replacement tree. Conditions will also require 80% of the planting to be of indigenous species.

6.6 **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overdevelopment of site**

Overdevelopment is a commonly used expression to dismiss development proposals which seek to remove existing buildings and to introduce significant new built form into particular neighbourhoods. An assessment against State and local planning policies and the provisions of Clause 55 can often demonstrate that a proposal is not an overdevelopment despite being more intensive than what existed before.

**Support Attachments**

1. Development Plans
2. Site and Surrounds imagery
3. Neighbourhood Character Policy
4. Clause 55 Assessment
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1: Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2: View of the site facing east
Figure 3: View of the site facing north
Figure 4: View of the site from Griffiths Street
Preferred Future Character

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To strengthen the bushy garden character of the area through the planting of appropriate species.</td>
<td>Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone). Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous vegetation. Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds.</td>
<td>Responds, subject to condition</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation</td>
<td>Buildings should be sited to allow space for a garden, including trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
</tbody>
</table>

Council’s arborist has reviewed the proposal, including the removal of a Desert Ash tree from the north-east corner of the site. Subject to conditions including the submittal of a detailed Landscaping Plan and Tree Management Plan and the planting of suitable indigenous vegetation, no objection is raised to the proposal. There are suitable soil volumes for the proposed trees.

The application also proposes the removal of a Scotch Elm from the north-west corner of the site to enable the construction of a swimming pool in that location. This is opposed, as the loss of the large established tree will be detrimental to the streetscape and detract from the bushy garden character of the area.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation</td>
<td></td>
<td>The proposal maintains visual separation and the street rhythm with adjoining properties. There is a ground-floor setback to the adjacent property at 69 Griffiths Street and separation between existing and proposed buildings is maintained at first-floor level.</td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | • Car parking structures that dominate the façade or view of the dwelling. | Responds  
The proposal incorporates two double garages, which are joined. The garages are, however, set back from the street on the long (south) elevation of the site. Conditions are recommended requiring the height of the parapet over the garages to be reduced and a lighter colour of timber cladding used on the doors. This will help reduce the impact of the garages on the streetscape. |
| To minimise site disturbance and impact of the building on the landscape. | • Buildings should be designed to follow the contours of the site on sloping sites  
• Minimise the use of retaining walls and battering of slopes.  
• Design new buildings and extensions so as not to exceed the predominant tree canopy height. | • Major excavation works and site levelling.  
• Buildings that protrude above the canopy. | Responds  
The site is generally flat with no retaining walls being required. Although the dwellings are two-storey they remain below the height of the tree canopy in the surrounding area. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade. | • Large bulky buildings.  
• Poorly articulated front and side wall surfaces. | Responds  
The proposed design is contemporary and incorporates a variety of materials and colours. Articulation is provided through setbacks and projecting elements. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>• To use building materials and finishes that complement the natural setting.</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>• Period reproduction styles and detailing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A simple palette of construction materials, colours and finishes reflect those commonly found within the streetscape.</td>
</tr>
<tr>
<td>• To maintain the openness of the front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>• High or solid front fences.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible</td>
<td></td>
<td>A 1.8m high picket fence is proposed. The style of fencing in the surrounding areas varies, and the proposed open-style fencing is considered acceptable.</td>
</tr>
</tbody>
</table>
### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes, subject to condition(s) | Refer detailed discussion elsewhere in report, particularly Attachment 2. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The subject site is appropriately located with regard to the services and facilities required to support two dwellings. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | Any upgrades required will be the responsibility of the developer. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street. | Yes | The dwellings appropriately address the street and entries are clearly identifiable from the road. |
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | Yes | Complies with all minimum setbacks as they apply to corner sites. Front setback of Unit 1 is equal to the abutting property at 72 Oak Street, and setbacks along the side street (Griffiths Street) are either 2m or 3m. |
| **B7 Building Height**  
Building height should respect the existing or preferred neighbourhood character | Yes | **Required:** 8m  
**Proposed:** 6.8m |
| **B8 Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes | **Maximum:** 50%  
**Proposed:** 49.9% |
| **B9 Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | **Minimum:** 20%  
**Proposed:** 38% |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B10</td>
<td>Energy Efficiency</td>
<td>Yes</td>
<td>The proposal provides for adequate solar access to the dwellings, though Unit 2 has only one small, west-facing upper-floor highlight window (to a shower) and only highlight windows on its upper floor on the north elevation, relying instead on large south-facing windows for internal daylight.</td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
<td>No safety issues are considered likely to arise.</td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Yes</td>
<td>Council’s arborist has stated that the landscape plan to be submitted pursuant to a permit condition must be comprised of 80% indigenous species.</td>
</tr>
</tbody>
</table>
| B14 | Access | Yes | Appropriate vehicular access is provided.  
Maximum: 33% of street frontage  
Proposed: 27% of street frontage |
| B15 | Parking Location | Yes | The proposed car parking areas are appropriately located, in this instance in ground-level double garages. |
| B17 | Side and Rear Setbacks | Variation required | The application proposes that the upper floor of Unit 2 be set back 3.32m from the east (rear) boundary, where 4.92m is required to comply with the standard.  
Refer report. |
| B18 | Walls on Boundaries | Yes | Maximum Height: 3.6m  
Proposed: 3.2m |
Bayside City Council  
Planning & Amenity Committee Meeting - 17 October 2017  
Attachment 4

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Yes/No</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item 4.2 – Matters of Decision</td>
<td>respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
<td>The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>The subject is located on the north side of Griffiths Street.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>All first-floor habitable room windows have sill heights of 1.7m above finished floor level.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes, subject to condition</td>
<td>At ground level, a 1.8m-high fence will be provided between the dwellings’ areas of secluded private open space, thus preventing internal overlooking.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>The dwelling entries are at ground-level, so will be accessible by people with limited mobility.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are clearly identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable room windows have direct access to daylight.</td>
</tr>
</tbody>
</table>
| **B28 Private Open Space** | Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum: 25m² secluded, 40m² overall  
Proposed: Unit 1 – 90m² spos  
Unit 2 – 45m² spos |
<p>| <strong>B29 Solar Access to Open Space</strong> | Allow solar access into the secluded private open space of | Yes | Appropriate solar access to the private open space areas is provided. The secluded private open space allocated to each dwelling has a north orientation. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B30 Storage</td>
<td>Yes</td>
<td>A 6m³ storage space is provided within each garage.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Yes</td>
<td>Refer discussion in Attachment 2.</td>
</tr>
</tbody>
</table>
| B32 Front Fences | Yes | Required: 1.2m  
Proposed: 1.6 - 1.8m  
Refer report. |
| B33 Common Property | N/A |  |
| B34 Site Services | Yes | There is adequate space in and around the dwellings for required services and facilities. |
4.3 32 ARRANMORE AVENUE, BLACK ROCK
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2015/768/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/206277

1. **Purpose and background**

To report a planning permit application for the construction of two double storey dwellings and the removal of three native trees that are protected under the Vegetation Protection Overlay - Schedule 3 on a lot within an area of 796 square metres (refer Attachment 1) at 32 Arranmore Avenue, Black Rock (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 June 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>24 August 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

Planning permit requirements

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

Clause 42.02 (Vegetation Protection Overlay) – A permit is required to remove, destroy or lop native vegetation.

3. **Stakeholder Consultation**

**External referrals**

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

**Internal referrals**

The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Trees</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Addressing</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and three objections were received. The following concerns were raised:

- Overdevelopment;
- Amenity Impacts (Noise);
- Boundary Fence Height;
- Overlooking;
• Overshadowing; and
• Neighbourhood Character.

Subsequent to this, the applicant lodged amended plans which were advertised to all previous objectors. Following this one further objection was received outlining the same grounds as noted above.

Consultation meeting

A consultation meeting was held on 23 August 2017 attended by the permit applicant and three objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2015/768/1 for the land known and described as 32 Arranmore Avenue, Black Rock for the construction of two dwellings and removal of three native trees in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans and Council date stamped 19 June 2017 but modified to show:

   a) For Dwelling 1 the setback of the Meals room/ walk in pantry to be increased to 2 metres from the eastern title boundary without modifying any other setbacks.

   b) For Dwelling 2 the setback of the Meals Room/ Walk in Pantry to be increased to 2 metres from the western title boundary without modifying any other setback.

   c) The Dwelling 2 pool removed, and replaced with additional landscaping.

   d) The gradient of the entire driveway to Dwelling 1 must not to exceed 1 in 10.

   e) A new 3 metre wide crossover is to be constructed with 1m offset from the western property boundary, with the existing crossover to be removed.

   f) Adequate sight lines must be provided where each driveway/ramp intersects with the front footpath as per the diagram shown in the AS2890.1. Any structures and vegetation within the splay must be limited to a height of 0.75m.

   g) Water sensitive urban design measures in accordance with Condition 6 of this permit.

   h) A Landscaping plan in accordance with Condition 7 of this permit.

   i) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 10 of this permit.

   j) Location of all plant and equipment, including hot water services and air conditioners etc.

   k) Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
l) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).

m) Deletion of the boundary fencing from the plans.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the or occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Prior to endorsement of the plan under Condition 1 of this permit, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

7. Prior to endorsement of the plan under Condition 1 of this permit, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted and endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with S4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) The planting of one indigenous canopy tree within the rear setback of Dwelling 2 capable of reaching a mature height of 10m and spread of 6m.
   d) The planting of one indigenous canopy tree within the rear setback of Dwelling 1 capable of reaching a mature height of 8m and spread of 4m.
   e) The planting of one indigenous canopy tree within the front setback of each dwelling capable of reaching a mature height of 8m and spread of 6m.
f) Removal of the pool within the rear setback of Dwelling 2 and replaced with additional landscaping.

g) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.

h) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

i) Details of surface finishes of pathways and driveways.

8. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

9. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

10. Prior to endorsement of the plan under Condition 1 of this permit, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

11. The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

12. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

13. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

14. Before the development starts tree protection fencing is to be established around the street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

15. Prior to soil excavation for a Council-approved crossover within the Tree Protection Zone of the street tree, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive non-destructive techniques and any roots that will be affected must be correctly pruned.
16. Any installation of services and drainage within the Tree Protection Zone of the street tree must be undertaken using root-sensitive, non-destructive techniques.

17. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.

18. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

19. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

20. Council records indicate that there is a 1.83m wide drainage and sewerage easement along the southern property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority.

21. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

22. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes:

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

- Subsurface water must be treated in accordance with Council’s Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures."
5.  Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

- Clause 11  Settlement
- Clause 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02  Vegetation Protection Overlay (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 3)
- Clause 45.06  Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines

6.  Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1.  Neighbourhood character

The site is located within Neighbourhood Character Precinct H1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The preferred neighbourhood character Statement for the H1 Precinct is:
The diverse dwelling styles are set within well-vegetated streetscapes dominated by large native and exotic canopy trees within the public and private domains. Tree and other vegetation species reflect the coastal location of the area. The dwellings are set within spacious gardens to accommodate the trees. Streetscapes appear as a mixture of single and double storey dwellings, however individual buildings respect adjoining dwellings and do not dominate the streetscape. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

The proposed construction of two new dwellings on this lot is consistent with the above statement. The building has been appropriately setback from the street and side boundaries to respect the existing rhythm and spacing found within the neighbourhood and provide an area which can accommodate the planting of extensive vegetation to enhance the garden setting. The proposed height and bulk of the dwellings is consistent with the low scale, coastal nature of the area and is reflected in the design. No front fence is proposed as part of this application which further enhances the open garden setting of the development and will reflect the preferred character of the precinct.

While the proposed development style does not replicate the existing styles, it is considered to provide diversity to the area which is consistent with the preferred neighbourhood character for the H3 precinct.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below.

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Dwelling 1 Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dwelling 2 Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

The first floor wall of Dwelling 1 has a minimum height of 6.1 metres and is therefore required to be set in 3.5 metres from the side boundary. The first floor wall for Dwelling 1 is set in 3.48m from the western boundary; therefore the non-compliance is very minor.

The walk in robe and ensuite for Bedroom 4 of Dwelling 1 is the only non-compliance. This wall adjoins the garage for 30 Arranmore Avenue which is not considered a sensitive interface. Given the minor nature of the non-compliance and its location adjoining a non-sensitive interface, it is considered that the proposed setback limits the potential for amenity impacts to existing dwellings. Therefore it is considered that the setbacks meet the objective of Clause 55.04-1 Side and Rear Setbacks, of the Bayside Planning Scheme.
6.3. **Car parking and traffic**

The proposal is for the construction of two, four bedroom townhouses. Clause 52.06 of the Bayside Planning Scheme requires each of these dwellings to be provided with two on site car parking spaces. Each dwelling is provided with a double garage within the front setback of the site and as such complies with this requirement. The proposed car parking structures and accessways are compliant with the design standards as set out in this clause.

A number of objections were raised regarding the potential increased traffic on Arranmore Avenue as a result of the proposed development. Objectors noted that the road is narrow and currently can be problematic to drive down. Existing parking problems and traffic congestion in the area cannot be addressed through the current application, nor should the burden of relieving these existing problems be imposed on the developer of the subject land.

Whilst it is acknowledged that the development will generate some additional vehicle movements on the local road network, it is not considered that such additional movements would necessarily be concentrated or conflict substantially with existing traffic. Furthermore some residents may choose to walk, cycle or use public transport which is available within a short walking distance of the site.

6.4. **Street tree removal**

There is a Brush Box tree located at the front of the property in the nature strip. The applicant is not seeking to remove this tree. Council’s Street Tree Arborist has advised that the location of the proposed vehicle crossing will not impact the street tree’s health and stability; however soil excavation must not occur within 3 metres of this tree. Conditions will be included on the permit to ensure this tree is protected and throughout the construction process.

6.5. **Vegetation & Landscaping**

The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

The objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.

The application plans show the removal of seven trees from the site including three trees protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with a ‘*’.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Proposed for retention</td>
<td>Proposed for retention</td>
<td>Proposed for retention</td>
</tr>
</tbody>
</table>

| Trees 5*, 8* & 9 | - | - | - |
| Trees 2, 3, 4, 6, & 7 | - | - | - |
Council's Arborist has reviewed the application and advises that Tree 5 is considered to be of good health however has a low amenity value. Tree 8 is of fair health, has a poor structure and a low amenity value, while Tree 9 is of poor health, has a fair structure and is of moderate amenity value. Further detail of each tree is provided in Attachment 4.

The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. Tree 5 has a low amenity value and is located such that any potential development would not be able to occur, whilst this tree is retained. Tree 8 is also of low amenity value and Tree 9 has a moderate amenity value but is of poor health. It is considered that removal of these trees is acceptable given their poor health and low amenity value.

A condition is recommended which requires the applicant to plant at least 4 indigenous trees on site, which will need to be maintained through to maturity. A further condition is recommended on the permit requiring the pool to Dwelling 2 be deleted to accommodate a large indigenous tree within this rear setback. It is considered that through these conditions, the character of the area including the extent of indigenous vegetation present, will be maintained once the required replacement plantings are undertaken.

The proposed vegetation removal will also not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the level of development proposed.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 5.

Tree Nos. 4, 10 and 11 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overdevelopment**

Overdevelopment is a commonly used expression to dismiss development proposals which seek to remove existing buildings and to introduce significant new built form into particular neighbourhoods. An assessment against State and local planning policies and the provisions of Clause 55 in respect to site coverage, setbacks, permeability, car parking, and open space provision demonstrates that a proposal is not an overdevelopment, despite being more intensive than what existed before.

**Amenity Impacts (Noise)**

Concerns were raised by the Objector at 34 Arranmore Avenue regarding the proposed location of a pool on the eastern boundary and the potential noise impacts of associated equipment. A condition is recommended requiring the deletion of the pool from Dwelling 2 in order to accommodate a large replacement tree.

**Boundary Fence Height**

Boundary fencing is a civil matter and is covered under separate legislation.
Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Policy ↓
4. Clause 55 Assessment ↓
5. Vegetation Protection Overlay Assessment ↓
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🔥</td>
</tr>
</tbody>
</table>
Figure 2. View of the subject site from the Northeast.

Figure 3. View of the subject site from the Northwest.
**Attachment 3**

**Neighbourhood Character**

**Neighbourhood Character Precinct H1**

**Preferred Future Character Statement**

The diverse dwelling styles are set within well-vegetated streetscapes dominated by large native and exotic canopy trees within the public and private domains. Tree and other vegetation species reflect the coastal location of the area. The dwellings are set within spacious gardens to accommodate the trees. Streetscapes appear as a mixture of single and double storey dwellings, however individual buildings respect adjoining dwellings and do not dominate the streetscape. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

**Precinct Guidelines**

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings, that utilises appropriate traditional coastal and native species.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>The applicant has included concept landscaping designs on the ground floor plan. These plans show the planting of large canopy trees within the front setback of each dwelling. The rear setback to each dwelling is comprised largely of decking areas, but does not show the planting of a large canopy tree within this space for each dwelling, this will be required by condition.</td>
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<tr>
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<tr>
<td>To enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species.</td>
<td>• Retain established large trees and native and traditional coastal vegetation and provide for the planting of new native coastal trees (locate footings outside root zone).</td>
<td>Removal of large trees. Planting of environmental weeds.</td>
<td>Responds</td>
</tr>
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<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Given the size of the proposed development, retention of established large trees is not possible. The landscape concept plans submitted with the development show that the proposal has scope to accommodate extensive planting within the front and rear setbacks of each</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To retain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for the planting of significant trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.  
• Minimise impervious surfaces particularly in front garden areas. | Loss of front garden space. | dwelling. Conditions will be included on the permit requiring the applicant to submit a landscape plan to the satisfaction of the responsible authority, including the planting of a range of indigenous and traditional coastal trees. |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling. | Car parking structures that dominate the façade or view of the dwelling. | Responds  
The front setback for the proposed is generous. The proposal also features a two metres side setback to the east boundary which provides separation between neighbouring dwellings. |
| To ensure that new dwellings and extensions do not dominate the streetscape. | • Recess upper level elements from the front façade.  
• Use pitched roof forms. |                                                                                         | Responds  
The first floor of the proposed dwellings are recessed from the front façade and sit behind the front wall of the ground floor. |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds  
It is proposed to construct the dwellings with a mixture of brick and timber. The selected materials complement the natural setting of the surrounding area. |
| To maintain the openness of the front garden to the street. | • Provide open style front fences, other than along heavily trafficked roads. | High, solid front fences. | Responds  
No front fence is proposed and the proposal will feature an open front garden area. |
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>A minimum street setback of 9 metres is proposed for both dwellings.</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td><strong>Yes</strong></td>
<td><strong>Required:</strong> 9m</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed Dwelling 1:</strong> 6.6m</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed Dwelling 2:</strong> 6.6m</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B8 Site Coverage</strong></th>
<th><strong>Yes</strong></th>
<th><strong>Maximum:</strong> 50%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed:</strong> 49.32%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B9 Permeability</strong></th>
<th><strong>Yes</strong></th>
<th><strong>Minimum:</strong> 20%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed:</strong> &gt;20%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B10 Energy Efficiency</strong></th>
<th><strong>Yes</strong></th>
<th>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located to utilise the northern orientation of the site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B11 Open Space</strong></th>
<th><strong>N/A</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B12 Safety</strong></th>
<th><strong>Yes</strong></th>
<th>No safety issues are considered to be likely to arise.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B13 Landscaping</strong></th>
<th><strong>Yes</strong></th>
<th>Refer to section 6.5 of the report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide appropriate landscaping. To encourage:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that respects the landscape character of the neighbourhood.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The retention of mature vegetation on the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B14 Access

Ensure the safe, manageable and convenient vehicle access to and from the development.

Ensure the number and design of vehicle crossovers respects neighbourhood character.

| Yes | Appropriate vehicular access is provided. |
| Maximum: 40% of street frontage |
| Proposed: 32.8% of street frontage |

### B15 Parking Location

Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

| Yes | The proposed car parking areas are appropriately located. |

### B17 Side and Rear Setbacks

Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.

| No. | Refer report and table below non-compliances are underlined. |

### Dwelling 1 Ground Floor

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m, and 1.2 m</td>
<td>3.5m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>7.7m</td>
<td>4.74m</td>
</tr>
</tbody>
</table>

### Dwelling 2 Ground Floor

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>2m</td>
<td>3.56m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>7.56m</td>
<td>4.74m</td>
</tr>
</tbody>
</table>

### B18 Walls on Boundaries

Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<p>| Yes | Maximum Height: 3.6m |
| Dwelling 1 Proposed: 3.2m |
| Dwelling 2 Proposed: Nil |
| Maximum Average Height: 3.2m |
| Dwelling 1 Proposed: 3.2m |
| Dwelling 2 Proposed: Nil |
| Maximum Length: 18.34m |
| Dwelling 1 Proposed: 6m |
| Dwelling 2 Proposed: Nil |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Standard</th>
<th>Compliance</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Yes</td>
<td>The proposal is setback from property boundaries to ensure daylight to existing windows is maintained.</td>
<td></td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Yes</td>
<td>Setbacks comply with this standard.</td>
<td></td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that there is no unreasonable overshadowing to adjoining properties. The abutting properties will receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.</td>
<td></td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Yes</td>
<td>Habitable room windows with potential for overlooking have been treated appropriately and comply with Standard B22 of the Bayside Planning Scheme.</td>
<td></td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>The layout of the proposed dwellings and screening treatment measures proposed will limit views into existing secluded private open space and habitable room windows of the dwellings within the same development.</td>
<td></td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
<td></td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
<td></td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
<td></td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
<td></td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Yes | **Minimum**: 25m² secluded, 40m² overall  
**Dwelling 1 Proposed**: 75.64 m² secluded  
**Dwelling 2 Proposed**: 85.1 m² secluded |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Provided adequate storage facilities for each dwelling within the garages.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>N/A</td>
<td>No front fence is proposed.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>Site services and facilities are proposed and are accessible, adequate and attractive.</td>
</tr>
</tbody>
</table>
### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area</td>
<td>There are currently seven trees within the boundaries of the subject site, however only three of these trees are protected under the VPO3. The applicant is seeking to remove all of these three trees. The removal of the protected trees, is considered acceptable provided they are replaced by four indigenous trees on the site.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality</td>
<td>The proposal involves removing two indigenous trees from the subject site. Given the replacement planting required will be for 4 indigenous trees, there will not be a negative impact on the presence of indigenous species in the locality.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>Tree 5 is located in the centre of the site, while the other two are located to the rear. The development will require these trees to be removed. It is expected that the removal of this vegetation will not be detrimental to the appearance of the development due to the replacement planting required, and the trees proposed for removal are towards the rear of the site and not particularly visible from the streetscape or surrounding area.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>It is considered that the loss of the existing trees will not have a detrimental impact on the fauna of the area. The replacement trees will offer quality habitat for fauna and will not detrimentally impact on the wildlife corridors given indigenous trees provide food and shelter for wildlife.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>Replacement canopy trees are to be indigenous trees by condition. The remaining replacement plantings will also be required to meet a minimum 80% indigenous species requirement and a condition will be placed on the permit to ensure this.</td>
</tr>
</tbody>
</table>
## Tree profile

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Botanical Name:</strong></td>
<td>Leptospernum laevigatum</td>
</tr>
<tr>
<td><strong>Common Name:</strong></td>
<td>Coastal Tea Tree</td>
</tr>
<tr>
<td><strong>Height / Canopy:</strong></td>
<td>7 m X 13 m east-west and 3 m northwest</td>
</tr>
<tr>
<td><strong>Trunk Circ.@1m:</strong></td>
<td>131 and 113</td>
</tr>
<tr>
<td><strong>Location 1</strong></td>
<td>9 m from the west boundary</td>
</tr>
<tr>
<td><strong>Location 2</strong></td>
<td>16 m from the south boundary</td>
</tr>
<tr>
<td><strong>Origin:</strong></td>
<td>Indigenous, Victorian, Australian, Exotic</td>
</tr>
<tr>
<td><strong>Age:</strong></td>
<td>Young, Semi-mature, Mature, Over-mature</td>
</tr>
<tr>
<td><strong>Health:</strong></td>
<td>Good, Fair, Poor, Dead</td>
</tr>
<tr>
<td><strong>Structure:</strong></td>
<td>Good, Fair, Poor, Hazardous</td>
</tr>
<tr>
<td><strong>Amenity Value:</strong></td>
<td>High, Moderate, Low, None</td>
</tr>
<tr>
<td><strong>Life Expectancy:</strong></td>
<td>20 years +, 10-19 years, 4-9 years, 0 - 3 years</td>
</tr>
<tr>
<td><strong>Retention Value:</strong></td>
<td>High, Medium, Low, None</td>
</tr>
<tr>
<td><strong>Habitat value:</strong></td>
<td>High, Medium, Low</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Botanical Name:</strong></td>
<td>Leptospernum laevigatum</td>
</tr>
<tr>
<td><strong>Common Name:</strong></td>
<td>Coastal Tea Tree</td>
</tr>
<tr>
<td><strong>Height / Canopy:</strong></td>
<td>8 m X 5 m</td>
</tr>
<tr>
<td><strong>Trunk Circ.@1m:</strong></td>
<td>&gt;50 cm</td>
</tr>
<tr>
<td><strong>Location 1</strong></td>
<td>~2 m from the west</td>
</tr>
<tr>
<td><strong>Location 2</strong></td>
<td>~6 m from the south</td>
</tr>
<tr>
<td><strong>Origin:</strong></td>
<td>Indigenous, Victorian, Australian, Exotic</td>
</tr>
<tr>
<td><strong>Age:</strong></td>
<td>Young, Semi-mature, Mature, Over-mature</td>
</tr>
<tr>
<td><strong>Health:</strong></td>
<td>Good, Fair, Poor, Dead</td>
</tr>
<tr>
<td><strong>Structure:</strong></td>
<td>Good, Fair, Poor, Hazardous</td>
</tr>
<tr>
<td><strong>Amenity Value:</strong></td>
<td>High, Moderate, Low, None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
</tr>
<tr>
<td>-----------------</td>
<td>------------</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
</tr>
<tr>
<td>Habitat value:</td>
<td>High</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Botanical Name:</th>
<th>Common Name:</th>
<th>Height / Canopy:</th>
<th>Trunk Circ. @1m:</th>
<th>Location 1</th>
<th>Location 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Agonis flexuosa</td>
<td>West Australian Weeping Peppermint</td>
<td>12 m X 10 m</td>
<td>~2 m from the south</td>
<td>~6 m from the west</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Origin:</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age:</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Habitat value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td></td>
</tr>
</tbody>
</table>

Definitions

The retention value of a tree considers the tree as a whole including its health, structure, amenity value and life expectancy. The criteria for high, medium and low retention value trees are:

(H) High

The tree is generally in good health and structure, provides high levels of amenity and is likely to do so for more than 20 years. The tree may have historic or cultural significance.

(M) Medium

The tree is generally in fair to good health and structure, provides moderate levels of amenity and is likely to do so for up to 20 years.
(L) Low

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
4.4 7 RUXTON RISE, BEAUMARIS  
(FORMERLY LOT 6 - 489 BALCOMBE ROAD)  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2017/381/1 WARD: SOUTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/208449

This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling on a lot less with an area of 497 square metres (refer Attachment 1) at 7 Ruxton Rise, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 June 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>28 September 2017</td>
</tr>
</tbody>
</table>

Site History

Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on the 13 October 2015 for minor amendments to the conditions. The permit was amended again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015 to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles across the site place restrictions on the development of each site. These are discussed later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the development of individual sites, including the provision of building envelopes and maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing, and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.

It is noted the original Section 173 agreement did not allow works outside of the building envelope. This prohibited all works that would normally be associated with a dwelling including site cuts, driveways and letterboxes from occurring outside the building envelope. It is acknowledged this was over and above the intent of the building envelopes as decided by the VCAT decision and an amended Section 173 agreement was re-drafted that reflects the intent of the VCAT decision and community expectations for the development of the site, while enabling landowners to reasonably develop each site. The amended section 173 was signed by all owners and Council and registered on all titles on the 21 June 2017 (Dealing No. AN936521R).
2. Policy implications

Planning permit requirements

Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of one dwelling on a lot.

3. Stakeholder Consultation

External referrals

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

Internal referrals

The application was referred to the following Council departments for comment

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and one objection was received. The objection raises the following concerns:

- Overlooking;
- Overshadowing; and
- Incorrect natural ground levels on plans.

Consultation meeting

The applicant declined a consultation meeting. It is understood the applicant has approached the objector directly, although this has not resulted in the withdrawal of the objection.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/381/1 for the land known and described as 7 Ruxton Rise, Beaumaris for the construction of a double storey dwelling on a lot less than 500 square metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the application plans submitted 3 August 2017 but modified to show:

   a) Clarification of specific measures for each window required to treat overlooking at the first floor east, south and west elevations to comply with Standard A15 of the Bayside Planning Scheme.
b) A longitudinal section of the driveway and basement ramp showing the grades and lengths of grades in accordance with AS2890.1.

c) Any development changes (including site cut) and retaining walls required in accordance with Condition 1(b) of this permit.

d) Exact location of the basement turntable including setbacks from subfloor walls.

e) Manufacturer specifications of the basement turntable including a minimum diameter of 4.5 metres.

f) Exact location of the basement car parking spaces – a minimum of two (2) car parking spaces must be clearly shown.

g) Length and width of the car parking spaces in accordance with AS2890.1.

h) Removal of all reference to height and location of boundary fencing.

i) The use of the word “should” replaced with “must” in Appendix one of the Arboricultural Assessment Report, prepared by Glenn Waters Arboriculture and dated 13 April 2016.

j) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.

k) A Tree Management Plan and Tree Protection Plan in accordance with Condition 10 of this permit.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design stormwater treatment measures to be used.

   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.

   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.
These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossing servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

10. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

11. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

12. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

13. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

14. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.

15. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.
16. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

17. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit notes
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy
   Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:
- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.
Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 54 One dwelling on a lot
- Clause 65 Decision Guidelines

6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal retains sufficient space to the east and south of the dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects. The proposal, subject to conditions of approval, would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

The proposed garage is recessed behind the primary façade of the dwelling and is sought to be dug-in to allow for parking facilities at the basement level. This reduces the dominance of the car parking structures. The slope of the site would further reduce the dominance of the garage when viewed from the Ruxton Rise streetscape. The front door is also recessed behind the front wall but it is clearly delineated with a walkway, stairs and glass balustrades. The proposal is considered to represent a design that is appropriate with regard to the preferred neighbourhood character.

The proposal presents a protruding front wall which will feature prominently, potentially delivering a bulkiness to the built form. This is softened with the proposed installation of a vertical slat privacy screen in front of the living room window facing the street. The use of natural cladding will further integrate the built form within the existing landscape.
Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of provide open space for each dwelling is also acknowledged. The proposed site cut for the dwelling is not considered excessive in this context.

6.2. **Compliance with Clause 54 (ResCode)**

An assessment against the requirements of Clause 54 is provided at Attachment 4. The application has been assessed as being compliant with all standards of Clause 54, therefore no further discussion is required.

6.3. **Car parking and traffic**

The dwelling is provided with a basement car parking area which allows space for two car parking spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding access from Ruxton Rise, the driveway and ramp, the mechanical turntable and car parking spaces.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4. **Vegetation & Landscaping**

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies the Southern Mahogany (*Eucalyptus botryoldes*) for retention just off-site and requires a planting schedule with multiple indigenous canopy trees in the rear private open space. These trees are proposed to be complemented with a palette of shrubs, groundcovers and grasses, particularly along the eastern interface.

A landscape plan for the site, prepared by John Patrick Landscape Architects and dated July 2017, has been submitted in support of the application. A number of trees, shrubs and groundcovers are proposed throughout the site, including four indigenous canopy trees to the rear of the proposed dwelling. The proposed planting is consistent with the endorsed landscape plan and is therefore recommended for support.

6.5. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overlooking**

The applicant submitted plans with notations for all first-floor windows on the east, south and west elevations to meet Standard A15 through screening or obscure glazing. A condition has been added to the recommendation requiring clarification of the measures for every individual window to be screened or obscured. With this additional detailing on the endorsed plans, it is considered this grounds for objection has been satisfactorily addressed.
Overshadowing

Shadow drawings submitted with in association with the request for information demonstrate that there will be minor overshadowing impacts on properties to the east and west of the subject land. This includes the objector’s property at 73A Haydens Road. That said, the level of overshadowing is sufficient to meet Standard A14 in that at least 75% of the secluded private open space will receive at least five hours of sunlight between 9am and 3pm on 22 September. Standard A14 is considered a sufficient measure of overshadowing and it has been satisfactorily met for this proposal.

Incorrect NGL’s shown on plans

The applicant has indicated that they have used an adjacent natural ground level measure for the site. Due to the slope of the site, there is a significant amount of excavation required for the dwelling to be constructed. The plans submitted with the application demonstrate the adjacent natural ground level to officer’s satisfaction.

Support Attachments

1. Development Plans
2. Site Surrounnds and Imagery
3. Neighbourhood Character Assessment
4. Clause 54 Assessment
PROPOSED NEW RESIDENCE
at 7 RUXTON RISE (LOT 6)
BEAUMARIS VICTORIA
for G & L QUIRK
Item 4.4 – Matters of Decision
Figure 1. Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>![Star]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>![Circle]</td>
</tr>
</tbody>
</table>
Figure 2. View from 7 Ruxton Rise looking east towards objector’s property

Figure 3. View from 7 Ruxton Rise looking south towards Balcombe Road
Figure 4. View from the end of Ruxton Rise north towards the subject land
Neighbourhood Character (Precinct H3) Assessment

Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds | Responds  
A landscape plan has been submitted and includes the planting of multiple indigenous canopy trees in the rear POS. While there is a significant amount of surfacing throughout the site, permeable paving is used. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The dwelling is within the building parcel approved as a part of the subdivision permit (2014/516/2) which allows for an appropriate spread of dwellings within the new site. |
<p>| To minimise the loss of front garden spaces and the | • Locate garages and carports behind the line of the dwelling. | Car parking structures that | Responds |
|                                                                 |                                                                                  |                                                                                  |                                                        |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>dominance of car parking structures.</td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>dominate the façade or view of the dwelling.</td>
<td>The proposed garage is recessed behind the primary façade and uses the undulation of the land is diminish its impact on the future streetscape of Ruxton Rise.</td>
</tr>
<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>• Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise the use of retaining walls and battering of slopes.</td>
<td></td>
<td>While significant excavation is proposed on the site, it is considered necessary in order to allow this undulating land to be developed. The design of the dwelling minimises the need for retaining walls on and off-site.</td>
</tr>
<tr>
<td></td>
<td>• Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>Large, bulky buildings Poorly articulated front and side wall surfaces.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Recess upper levels from the front façade.</td>
<td></td>
<td>This proposal incorporates a variety of materials and screening in order to present an interesting and naturally complementary built form.</td>
</tr>
<tr>
<td>To use building materials and finishes that complement the natural setting.</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>As discussed, the variety of materials will complement the natural surrounds.</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td>No front fencing is proposed.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
Clause 54 (ResCode) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 2m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street</td>
<td></td>
<td>Proposed: 2m</td>
</tr>
<tr>
<td>respect the existing or preferred</td>
<td></td>
<td>Note: The street setback is set by the building parcel approved under the original subdivision permit (2014/516/2).</td>
</tr>
<tr>
<td>neighbourhood character and make</td>
<td></td>
<td></td>
</tr>
<tr>
<td>efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td>Building height respects the</td>
<td></td>
<td>Proposed: 7.1m</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td>Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2).</td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the</td>
<td></td>
<td>Proposed: 47.5%</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater</td>
<td></td>
<td>Proposed: 32%</td>
</tr>
<tr>
<td>run-off on the</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
drainage system and facilitate on-site stormwater infiltration.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>A7 Energy Efficiency</td>
<td>Yes</td>
</tr>
<tr>
<td>A8 Significant Trees</td>
<td>Yes</td>
</tr>
<tr>
<td>A10 Side and Rear Setbacks</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Ground Floor</strong></th>
<th><strong>First Floor</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (side)</td>
<td>2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>4m</td>
</tr>
</tbody>
</table>

A11 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>A11 Walls on Boundaries</td>
<td>Yes</td>
</tr>
<tr>
<td>A12 Daylight to existing windows</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------------</td>
<td>--------</td>
</tr>
<tr>
<td>A13 North Facing Windows</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>A14 Overshadowing Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>A15 Overlooking</td>
<td>Yes</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Yes</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Yes</td>
</tr>
</tbody>
</table>
4.5  5 RUXTON RISE, BEAUMARIS
(FORMERLY LOT 5 - 489 BALCOMBE ROAD)
GRANT A PLANNING PERMIT
APPLICATION NO: 2017/428/1  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/208465

This matter has been reported to the Planning and Amenity Committee for a
decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling
on a lot with an area of 481 square metres (refer Attachment 1) at 5 Ruxton Rise,
Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>10 July 2017</td>
</tr>
<tr>
<td>Statutory days expire</td>
<td>29 October 2017</td>
</tr>
</tbody>
</table>

Site History

Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the
Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former
Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration
of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on
the 13 October 2015 for minor amendments to the conditions. The permit was amended
again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015
to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the
subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles
across the site place restrictions on the development of each site. These are discussed
later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the
development of individual sites, including the provision of building envelopes and
maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans
for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to
the building envelope, height of development and tree protection fencing, and requires
landscape plans to be prepared for each site and arborist reports where trees are to be
retained.

It is noted the original Section 173 agreement did not allow works outside of the building
envelope. This prohibited all works that would normally be associated with a dwelling
including site cuts, driveways and letterboxes from occurring outside the building
envelope. It is acknowledged this was over and above the intent of the building
envelopes as decided by the VCAT decision and an amended Section 173 agreement
was re-drafted that reflects the intent of the VCAT decision and community expectations
for the development of the site, while enabling landowners to reasonably develop each
site. The amended section 173 was signed by all owners and Council and registered on
all titles on the 21 June 2017 (Dealing No. AN936521R).
2. **Policy implications**

   **Planning permit requirements**

   Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of one dwelling on a lot.

3. **Stakeholder Consultation**

   **External referrals**

   There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

   **Internal referrals**

   The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

   **Public notification**

   The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and no objections were received. As such, no consultation meeting was required.

4. **Recommendation**

   That Council:

   Issues a **Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2017/428/1** for the land known and described as **5 Ruxton Rise, Beaumaris** for the **construction of a double storey dwelling on a lot less than 500 square metres** in accordance with the endorsed plans and subject to the following conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the application plans submitted 29 August 2017 but modified to show:

      a) Setbacks to the eastern boundary for the first floor in accordance with Standard A10 of the Bayside Planning Scheme.

      b) Clarification of specific measures for each window required to treat overlooking at the first floor north and east elevations to comply with Standard A15 of the Bayside Planning Scheme.

      c) A revised north elevation, clearly showing the line of adjacent natural ground level.

      d) A longitudinal section of the driveway showing the grades and lengths of grades in accordance with AS2890.1.

      e) A schedule of construction materials, external finishes and colours (incorporating paint samples).

      f) Removal of all reference to height and location of boundary fencing.
g) The use of the word “should” replaced with “must” in Appendix one of the Arboricultural Assessment Report, prepared by Greenwood Consulting Pty Ltd and dated 24 July 2017.

h) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.

i) A Tree Management Plan and Tree Protection Plan in accordance with Condition 10 of this permit.

All to the satisfaction of the Responsible Authority.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design stormwater treatment measures to be used.
   
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossing servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.
10. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

11. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

12. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

13. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

14. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.

15. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

16. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

17. This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.

b) The development is not completed within four years of the date of this permit.
In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit notes

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme and the individual merits of the application.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal retains sufficient space to the south, east and north of the dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects. The proposal, subject to conditions of approval, would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character by the preferred future character for the area.

The proposed garage protrudes towards the Ruxton Rise streetscape but its visual prominence is diminished by the downslope of the site from the street and being clad in a timber finish. While the entry is partially recessed behind the garage wall, the finished floor level of the entry is 1.3 metres higher than the garage which increases the conspicuity of the dwelling entrance to an acceptable level. An aluminium clad porch further increases the sense of identity to the façade of the dwelling which will integrate sufficiently with the proposed landscaping along the southern interface with Ruxton Rise. The proposal is considered to represent a design that is appropriate with regard to the preferred neighbourhood character.

The proposal has integrated a built form that respects the irregular shape of the subject site thus respecting setbacks implemented on the RSL site through building parcels. The angled roof pitch responds innovatively to the slope of the land and timber and stone wall cladding will complement the surrounds.

Given the slope and undulation of the site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space for each dwelling is also acknowledged. The proposed site cut for the dwelling is therefore not considered excessive in this context.

6.2. Compliance with Clause 54 (ResCode)

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below.
Side and Rear Setbacks (Standard A10)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>South-East (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td>North (side)</td>
<td>2m</td>
<td>2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>2.6m</td>
<td>2.8m</td>
</tr>
</tbody>
</table>

The proposal seeks variations to the setback standards to the rear eastern boundary. The objective of Standard A10 is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

Pursuant to sheet 3 of the endorsed subdivision permit plans, the subject site must comply with Schedule 3 of the Neighbourhood Residential Zone, including the side and rear setbacks at ground and first floor. This annotation on the endorsed plan was a requirement of Condition 1(g) of the VCAT directed permit for all lots larger than 500 square metres. The proposal does not comply with this envelope as outlined in the table above. It is acknowledged this condition sought to ensure that a single dwelling constructed on the site, which would not require planning permission, would comply with the siting provisions of Schedule 3 of the Neighbourhood Residential Zone. A condition of approval is recommended to ensure these dwellings comply with the side and rear setback standards pursuant to Schedule 3 of the Neighbourhood Residential Zone.

6.3. **Car parking and traffic**

The dwelling is provided with a double garage which allows space for two car parking spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding access from Ruxton Rise and the grade of the driveway.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4. **Vegetation and Landscaping**

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies the Southern Mahogany (*Eucalyptus botryolodes*) for retention just off-site and requires a planting schedule with consistent shrubbery along the eastern rear boundary.

A landscape plan for the site prepared by John Patrick Landscape Architects and dated November 2016, has been submitted in support of the application. A number of trees, shrubs and groundcovers are proposed throughout the site, including 17 trees of height varying between 2 and 10 metres in height. The variety of planting proposed throughout the site, particularly along the Ruxton Rise streetscape and the eastern interface, is consistent with the endorsed landscape plan and is therefore recommended for support.

6.5. **Objections received**

No objections were received to the application.
Support Attachments

1. Development Plans
2. Site Surrounds and Imagery
3. Neighbourhood Character Assessment
4. Clause 54 Assessment
PROPOSED NEW RESIDENCE
at 5 Ruxton Rise (Lot 5)
Beaumaris Victoria
for R. & C. Welch
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2. View to 5 Ruxton Rise looking north from the footpath

Figure 3. View to 5 Ruxton Rise looking east demonstrating the slope of the land
Figure 4. View from 5 Ruxton Rise east towards dwellings fronting Haydens Road
Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

| Objectives                                                                 | Design Responses                                                                 | Avoid                                                                 | Planning Officer Assessment
|---------------------------------------------------------------------------|-------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------------|
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation. Removal of large established trees. Planting of environmental weeds | Responds  
A landscape plan has been submitted and includes the planting of multiple native trees along the site boundaries. It is considered that the level of landscaping is a positive reflection on the preferred neighbourhood character. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The dwelling is within the building parcel approved as a part of the subdivision permit (2014/516/2) which allows for an appropriate spread of dwellings within the new site. |
<p>| To minimise the loss of front garden spaces and the | • Locate garages and carports behind the line of the dwelling. | Car parking structures that | Responds |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>dominance of car parking structures.</strong></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>dominate the façade or view of the dwelling.</td>
<td>Although the proposed garage protrudes in front of the primary façade, the undulation of the land and natural cladding diminishes visual impacts on the future streetscape of Ruxton Rise. There is sufficient space for landscaping along the Ruxton Rise frontage.</td>
</tr>
</tbody>
</table>
| **To minimise site disturbance and impact of the building on the landscape.** | • Buildings should be designed to follow the contours of the site on sloping sites.  
• Minimise the use of retaining walls and battering of slopes.  
• Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Major excavation works and site levelling.  
Buildings that protrude above the tree canopy height. | Responds  
While significant excavation is proposed on the site, it is considered necessary in order to allow this undulating land to be developed. The design of the dwelling reduces the need for retaining walls on and off-site. |
| **To ensure that new buildings provide an articulated and interesting façade to the street.** | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | Responds  
This proposal incorporates a variety of materials and screening in order to present an interesting and naturally complementary built form. |
| **To use building materials and finishes that complement the natural setting.** | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds  
As discussed, the variety of materials will complement the natural surrounds. |
| **To maintain the openness of the front garden to the street.**            | • Provide open style front fences, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fences. | Responds  
No front fencing is proposed. |
## ATTACHMENT 4

### Clause 54 (ResCode) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>The dwellings appropriately address the street and the entry is clearly identifiable from the streetscape.</td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>Minimum: 4.5m</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>Proposed: 4.5m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: The street setback is set by the building parcel approved under the original subdivision permit (2014/516/2).</td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td>Yes</td>
<td>Proposed: 7m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2).</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Proposed: 36%</td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Proposed: 49%</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Note: Reduce the impact of stormwater run-off on the streetscape.</td>
</tr>
</tbody>
</table>
drainage system and facilitate on-site stormwater infiltration.

<table>
<thead>
<tr>
<th>A7 Energy Efficiency</th>
<th>Yes</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings. Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A8 Significant Trees</th>
<th>Yes</th>
<th>The development respects the adjoining tree T27 sought to be retained under permit 2015/516/2.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A10 Side and Rear Setbacks</th>
<th>No</th>
<th>Refer report and table below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
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</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>South-East (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>North (side)</strong></td>
<td>2m</td>
</tr>
<tr>
<td><strong>East (rear)</strong></td>
<td>2.6m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A11 Walls on Boundaries</th>
<th>Yes</th>
<th>No walls are proposed on site boundaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A12 Daylight to existing windows</th>
<th>Yes</th>
<th>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Item 4.5 – Matters of Decision
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
</table>
| A13 North Facing Windows | Allow adequate solar access to existing north-facing habitable room windows. | Yes | No north facing windows on adjoining properties are affected.  
*Note: This has considered windows proposed in the concurrent applications for 7 and 9 Ruxton Rise (2017/381 & 2017/382)* |
| A14 Overshadowing Open Space | Ensure buildings do not unreasonably overshadow existing secluded private open space. | Yes | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September. |
| A15 Overlooking | Limit views into existing secluded private open space and habitable room windows. | Yes | Applicant has made a notation showing this standard will be met – condition added to clarify what form of screening will be used. |
| A16 Daylight to New Windows | Allows adequate daylight into new habitable room windows. | Yes | All habitable windows have direct access to daylight. |
| A17 Private Open Space | Provide adequate private open space for the recreation and service needs of residents. | Yes | **Minimum:** 25m² secluded, 40m² overall **Proposed:** greater than 100m² |
| A18 Solar Access to Open Space | Allow solar access into secluded private open space of a new dwelling. | Yes | SPOS along the northern side of the dwelling will receive abundant natural light. |
| A19 Design Detail | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer Attachment 3. |
| A20 Front Fences | Encourage front fence design that respects the exiting or preferred neighbourhood character. | Yes | None proposed. |
4.6 277 BAY ROAD, CHELTENHAM
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2015/311/1  WARD: CENTRAL

1. Purpose and background

To report a secondary consent application for the use of the land for the purpose of dwellings, the construction of a building and the construction of or the carrying out of works, a reduction of the required parking and a waiver of the required loading bay in the Commercial 1 Zone and the Design and Development Overlay Schedule 2 on a lot with an area of 1,313 square metres (refer Attachment 1) at 277 Bay Road, Cheltenham (refer Attachment 2).

Planning permit 2015/311/1 was issued at the direction of the Victorian and Civil Administrative Tribunal (VCAT) on 8 July 2016. The permit allows the use of the land for the purpose of dwellings, the construction of a building and the construction of or the carrying out of works, a reduction of the required parking and a waiver of the required loading bay in the Commercial 1 Zone and the Design and Development Overlay Schedule 2.

The applicant has now sought permission to amend the endorsed plans as follows:

- Introduction of a second basement level (required due to fire regulations), which in turn allows for the removal of the previously approved car stackers – to be replaced with a traditional parking form. Other services and amenities (storage areas, bin store) would also be made larger.
- The number of parking spaces would not change (remaining at 47).

The approved development shows a mixed use development, over three storeys comprising four shops and 25 dwellings. This would not change, nor would the external appearance of the building.

2. Policy implications

Planning permit requirements

There are no primary policy matters to consider as part of this application which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2015/311/1.

3. Stakeholder Consultation

Referrals

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

The application was referred to Council’s Traffic Engineer who was generally satisfied with the plan.
Public notification

Applications made in accordance with the provisions of Secondary Consent are not subject to the notice requirements of Sections 52(1)(a), (b) and (d) of the Planning and Environment Act 1987. Therefore these changes to the plans cannot be advertised.

4. Recommendation

That Council:

Approve the Amended Plans in accordance with the Secondary Consent provision of Planning Permit 2015/311/1 for the land known as described as 277 Bay Road, Cheltenham issued for the use of the land for the purpose of dwellings, the construction of a building and the construction of or the carrying out of works, a reduction of the required parking and a waiver of the required loading bay and the following table be added at the end of the permit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 October 2017</td>
<td>Secondary Consent Amended Plans:</td>
</tr>
<tr>
<td></td>
<td>Drawing TP01</td>
</tr>
<tr>
<td></td>
<td>• Addition of sheet TP04a (to reflect the second level of basement)</td>
</tr>
<tr>
<td></td>
<td>• Sheets TP04 &amp; TP04a renamed</td>
</tr>
<tr>
<td></td>
<td>Drawing TP04 - Basement Level 2</td>
</tr>
<tr>
<td></td>
<td>• Addition of basement level 2</td>
</tr>
<tr>
<td></td>
<td>• Revision of Building Area schedule due to changes to basement levels</td>
</tr>
<tr>
<td></td>
<td>• Correction of total number of basement car parking spaces as 47 (previously incorrectly noted as 44) under 'Basement area &amp; Parking Schedule'.</td>
</tr>
<tr>
<td></td>
<td>• Removal of car stacker specifications</td>
</tr>
<tr>
<td></td>
<td>• Relocation of ramp section to sheet TP04a</td>
</tr>
<tr>
<td></td>
<td>• Addition of detention tank and fire sprinkler tank to basement</td>
</tr>
<tr>
<td></td>
<td>TP04a - Basement Level 1</td>
</tr>
<tr>
<td></td>
<td>• Removal of car stackers</td>
</tr>
<tr>
<td></td>
<td>• Car spaces and columns revised generally due to removed car stackers and rationalized structure (refer letter from Traffic engineer)</td>
</tr>
<tr>
<td></td>
<td>• Relocation of water tanks and reduction in basement footprint with the removal of area to the north of the basement where the water tanks were previously located.</td>
</tr>
<tr>
<td></td>
<td>• Store layout revised (generally made larger) and stores relocated to basement level 2</td>
</tr>
<tr>
<td></td>
<td>• Car space locations revised generally due to removed car stackers and structure</td>
</tr>
</tbody>
</table>
5. **Council Policy**

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. **Considerations**

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (e.g. Westpoint Corporation P/L v Moreland CC [2005] and Oz Property Group P/L v Moonee Valley CC [2014]).

The tests include the following:

6.1 *The proposed amendment does not result in a transformation of the proposal.*

The proposed amendments relate to changes to the internal layout of the development, specifically the basement. The proposed changes are considered to be minor in nature and will have limited impact to the amenity of adjoining properties and will not cause material detriment to any third parties.

The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for and do not result in a transformation of the proposal. The changes comply with the relevant Planning Scheme policies.

Importantly, the primary floors of the development (i.e. those above ground) would remain unaltered.

6.2 *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*

The primary consent was issued at the direction of VCAT for the use of the land for the purpose of dwellings, the construction of a building and the construction of or the carrying out of works, a reduction of the required parking and a waiver of the required loading bay. The amendments sought under this application are consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

It must be noted that the number of car spaces would not change, remaining at the previously approved 47.

<table>
<thead>
<tr>
<th>Item 4.6 – Matters of Decision</th>
<th>Page 169 of 317</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bin store revised to be larger</strong></td>
<td><strong>Waste pick up area revised to reserve one visitors car space (car space no. 18) for waste truck during nominated waste collection times (refer letter from Traffic engineer)</strong></td>
</tr>
<tr>
<td><strong>Addition of ramps throughout and partly revised ramp from street (refer letter from Traffic engineer)</strong></td>
<td><strong>Revised floor levels for changes to ramps</strong></td>
</tr>
<tr>
<td><strong>Revised stair design to ground floor</strong></td>
<td><strong>Addition of convex mirrors (refer letter from Traffic engineer)</strong></td>
</tr>
<tr>
<td><strong>Addition of electrical meter cabinet room</strong></td>
<td><strong>5. Council Policy</strong></td>
</tr>
</tbody>
</table>

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. **Considerations**

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (e.g. Westpoint Corporation P/L v Moreland CC [2005] and Oz Property Group P/L v Moonee Valley CC [2014]).

The tests include the following:

6.1 *The proposed amendment does not result in a transformation of the proposal.*

The proposed amendments relate to changes to the internal layout of the development, specifically the basement. The proposed changes are considered to be minor in nature and will have limited impact to the amenity of adjoining properties and will not cause material detriment to any third parties.

The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for and do not result in a transformation of the proposal. The changes comply with the relevant Planning Scheme policies.

Importantly, the primary floors of the development (i.e. those above ground) would remain unaltered.

6.2 *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*

The primary consent was issued at the direction of VCAT for the use of the land for the purpose of dwellings, the construction of a building and the construction of or the carrying out of works, a reduction of the required parking and a waiver of the required loading bay. The amendments sought under this application are consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

It must be noted that the number of car spaces would not change, remaining at the previously approved 47.
6.3 *The proposed amendment is of no consequence having regard to the purpose of a planning control under which the permit was granted.*

Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land. It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties.

6.4 *The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.*

The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit and remains compliant with the relevant objectives and standards of the Bayside Planning Scheme.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Original Development Permit - 15/311/1 ↓
4. Endorsed development plans ↓
**Attachment 2**

*Figure 1 Aerial overview of the site and surrounds*

<table>
<thead>
<tr>
<th>Legend</th>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject site</strong></td>
<td>✪</td>
</tr>
</tbody>
</table>
Address Of The Land: No. 277 Bay Road CHEL TENHAM

The Permit Allows:
The use of the land for the purpose of dwellings; the construction of a building and the construction of or the carrying out of works; a reduction of the required car parking, and; a waiver of the required loading bay in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply to this Permit

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   (a) The removal of apartments G.01 and G.02 and the replacement of these apartments with commercial floor space generally in accordance with the plans contained at Appendix D of the evidence statement of Mr Tim Biles dated May 2016.
   (b) Amendments to the roof of the proposed development generally in accordance with the plan contained in appendix C of the evidence statement of Mr Phillip Greenup dated 25 May 2016.
   (c) Amendments to the proposed provision for car parking generally in accordance with the design recommendations in section 6 and appendix B of the evidence statement of Mr Russell Fairlie dated May 2016.
   (d) Double glazing for all south facing windows of any, level 1 and level 2, apartments with a Bay Road facade.
   (e) A schedule of construction materials, external finishes and colours.
   (f) If practicable, a small canopy tree within the courtyards of apartment G.05.
   (g) A landscape plan in accordance with Condition 9 of this planning permit.
   (h) 1.7m high screens between any balconies or private open space areas where appropriate to avoid internal overlooking.
   (i) A notation setting out the proposed allocation of car spaces within the basement between residents, traders, and visitors generally in accordance with the approach adopted in of the evidence statement of Mr Russell Fairlie dated May 2016.
   (j) Identification and directional signage in respect of the proposed visitor car spaces;
   (k) The bin storage areas at ground floor re-located to the basement in the non-secured section of the basement.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. All pipes, fixtures, fittings and vents servicing the building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the dwellings without the written consent of the Responsible Authority.
5 The walls on the boundaries of the adjoining property must be cleaned and finished to the satisfaction of the Responsible Authority.

6 Before the occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
   (a) Constructed;
   (b) Properly formed to such levels that they can be used in accordance with the development;
   (c) Surfaced with an all-weather-seal coat;
   (d) Drained;
   (e) Line marked to indicate each car space and all access lanes; and
   (f) Clearly marked to show the direction of traffic along access lanes and driveways

To the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

7 The vehicular crossing must be constructed to the road to suit the proposed driveway to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

8 Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access other than via the vehicle crossing shown on the endorsed plans.

9 Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The plan must detail all plant species and demonstrate that sufficient soil volume exists to support these species.

10 Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

11 The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

12 Before commencement of development, Tree Protection Fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the trees. The Tree Protection Zone is to be established and maintained in accordance with Australian Standards 4970 (Protection of trees on development sites). During construction of the crossover, tree protection fencing may be reduced to the edge of the council approved crossover to facilitate the construction of the crossover.
13 The applicant must apply for the nominated legal point of discharge for the development where stormwater run-off must be collected and free drained to Council's drainage assets to Council standards.

14 Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.60. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

15 Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

16 All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:

(a) A trench grate (150mm minimum internal width) located within the property; and/or
(b) Shaping the driveway so that water is collected in a grated pit on the property; and/or
(c) Another Council approved equivalent.

17 Before the development begins, two sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council's Engineering Services department for approval.

18 The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge into adjacent properties

19 Prior to the commencement of any works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The construction management plan must address, but is not limited to:

(a) Construction methodology.
(b) Site access establishment, adjoining properties, use of the rear laneway and the public footpath along Bay Road.
(c) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.
(d) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises.
(e) Control of noise and airborne matter and contact numbers for complaints;
(f) No water containing oil, foam, grease, scum or litter to be discharged to the stormwater drainage system from the site;
(g) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
(h) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site;
(i) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
(j) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

20 Prior to the commencement of the development hereby approved, the applicant must submit to the Responsible Authority, an amended Waste Management Plan (WMP). This WMP must be to the satisfaction of the Responsible Authority and specify that all waste will be collected by private contractors from within the site. The WMP must also detail that a 6.4m rear mini loader is to be used. The WMP must be amended to reflect conditions of this permit and include the following notes:

In section 2.3
- Commingle recycling (mixed recycling) must also include plastics coded 1-7 at a minimum
- Cardboard recycling will be organised by the Operators through a private collection contractor.
- Hard waste collections will be managed by the Operators (Body Corporate / Owners Corporation) and will be organised with a private collection contractor.
- Other waste items such as e-Waste, white goods, domestic volumes of household paints, household batteries, florescent tubes and mixed globes can be taken to Baysides Waste Transfer and Recycling Centre at 144 Talinga Road, fees and charges may apply.
- Household Chemical collections can be arranged through Sustainability Victoria via the mobile chemical collection program.

In Section 2.4
- Storm water drains in storage area should be fitted with a litter trap/filter installed to trap litter which can then be disposed of responsibly; any trap/filter is to be included on a regular cleaning and sanitising schedule and must be emptied regularly
- Signage and bin colour coding must be in accordance with Sustainability Victoria’s Away from Home Waste Signage guide. Update table to reflect signage guide – all bases should be black or green.

21 Prior to the commencement of the development (excluding demolition), the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended uses. This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the uses.

The PEA should include:
- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.
- A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials. This also includes a review of any previous Environmental Audits of the site and surrounding sites.

Should the PEA reveal that further investigative or remedial work is required to accommodate the intended uses, then prior to the commencement of the development, the
applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the uses.

This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development. The CEA should include:

- Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 4458.2.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
- An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
- Recommendations regarding what further investigate and remediation work, if any, may be necessary to ensure the site is suitable for the intended uses.

Prior to the occupation of the building, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.

Should the CEA recommend that an Environmental Audit of the site is necessary then prior to the occupation of the building the applicant must provide either:

(a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or

(b) A Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970. This Statement must confirm that the site is suitable for the intended use(s).

Where a Statement of Environmental Audit is provided, all the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority and prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements in it regarding the verification of works.

22 If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and/or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

23 The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:

(a) Transport of materials, goods or commodities to or from the land;
(b) Appearance of any building, works or materials;
(c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste productions, grit or oil;
(d) Presence of vermin;
(e) Other as appropriate.

24 Deliveries to and from the site (including waste collection) must only take place as specified in the Environmental Protection Authority’s Noise Control Guidelines Publication 1254 October 2008.

25 Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1

or

Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2

26 All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.

27 This permit will expire if one of the following circumstances applies:
(a) The development has not commenced within two years of the date of this permit.
(b) The development is not completed within four years of the date of this permit.
(c) The uses have not commenced within one year of completion of the development.

The Responsible Authority may extend the periods referred to above if a request is made in writing:-
• Before the permit expires; or
• Within 6 months afterwards if development has not commenced; or
• Within 12 months afterwards if the development has lawfully commenced.

**Permit Notes**

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 December 2016</td>
<td>Amendment to the endorsed plans under Secondary Consent: Basement and access</td>
</tr>
<tr>
<td></td>
<td>• The vehicle access ramp gradients revised and changes made accordingly to the ground floor and basement plans; and</td>
</tr>
<tr>
<td></td>
<td>• A non-allocated car parking space reallocated to Apartment G.03. Ground Floor Level</td>
</tr>
<tr>
<td></td>
<td>• Apartment G.03 reconfigured to allow for a three bedroom apartment with the north-facing courtyard decreasing in area from 18m² to 15m² and the west-facing courtyard increasing from 16m² to 17m²;</td>
</tr>
<tr>
<td></td>
<td>• Apartment G.04 increasing from a 1 bedroom apartment to a two bedroom apartment and north-facing courtyard increasing in area from 17m² to 20m²;</td>
</tr>
<tr>
<td></td>
<td>• Apartment G.05 to be reconfigured internally;</td>
</tr>
<tr>
<td></td>
<td>• Reduction in floor area of the services room and the remaining space used for bathrooms, laundry and store for Apartment G.03.</td>
</tr>
</tbody>
</table>

**THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSU**
1. Purpose and background

To report a secondary consent application for the use and development of a four storey building (plus basement car park) containing a retail premises and 22 dwellings, a reduction in the required car parking rate and a waiver of the loading and unloading of vehicles requirement on a lot with an area of 1,006 square metres (refer Attachment 1) at 439 Bay Street, Brighton (refer Attachment 2).

Planning Permit 2014/921/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 10 February 2016. The permit allows the use and development of a four storey building (plus basement car park) containing a retail premises and 22 dwellings, a reduction in the required car parking rate and a waiver of the loading and unloading of vehicles requirement (refer Attachment 3).

The applicant has now sought permission to amend the endorsed plans with the following being the more noticeable changes:

- Internal rearrangement of the basement and apartments, without a change in any setbacks.
- Modification to the services of the building, including the deletion of the proposed substation.
- Deletion of plant boxes from the balconies of the apartments and the roof.

A list of the complete changes is noted in the recommendation.

**Note:** The site has been cleared and is ready for the development to commence. No construction work has commenced.

2. Policy implications

**Planning permit requirements**

There are no primary policy matters to consider as part of this application, which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2014/921/1.

3. Stakeholder Consultation

**Referrals**

There were no external referrals requires to be made in accordance with Clause 66 of the Bayside Planning Scheme and no internal referrals required to be made to other Council departments for comment.

**Public notification**

Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the *Planning and Environment Act 1987*. Therefore, the amended plans have not been advertised.
4. **Recommendation**

That Council:

**Approve** the Amended Plans in accordance with Secondary Consent Provisions of Planning Permit No. 2014/921/1 in respect of the land known and described as 439 Bay Street, Brighton, for the **Use and development of a four storey building (plus basement car park)** containing a retail premises and 22 dwellings, a reduction in the required car parking rate and a waiver of the loading and unloading of vehicles **requirement** in accordance with the endorsed plans and subject to the following table being inserted at the end of the permit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 October 2017</td>
<td><strong>Secondary Consent Amended Plans:</strong></td>
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<tr>
<td></td>
<td>• Modifications to the development of the four storey building plus basement car park, which is known as 439 Bay Street, Brighton, in particular:</td>
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<tr>
<td></td>
<td><strong>Basement</strong></td>
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<td>- Reconfiguration of bicycle spaces and storage areas to reduce the size of basement.</td>
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<td>- Reduction of the size of the proposed lift.</td>
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<td></td>
<td><strong>Ground Floor</strong></td>
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<td>- Deletion of the substation at the north east corner and replaced by landscaping.</td>
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<td></td>
<td>- Additional gas service to be included to the Bay Street frontage.</td>
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<tr>
<td></td>
<td>- A new door to be added to the retail tenancy fronting Bay Street.</td>
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<tr>
<td></td>
<td>- Reduction of the size of the proposed lift.</td>
</tr>
<tr>
<td></td>
<td>- Glazing to the proposed retail to be offset 200mm off the east boundary</td>
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<tr>
<td></td>
<td>- Minor internal layout changes to the Apt1.08, Apt1.09, Apt1.07, Apt1.01 and Apt1.02.</td>
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<td>- Increased area of the proposed Apt.1.01 by reducing the size of internal hallway.</td>
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<td>- Deletion of two doors of the internal hallway.</td>
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<td>- Additional window to the north of the corridor</td>
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<td></td>
<td><strong>Second Floor</strong></td>
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<td>- Deletion of inaccessible plantboxes to the north of Apt1.01, Apt1.06 and Apt1.07.</td>
</tr>
<tr>
<td></td>
<td>- Roof area of the proposed retail premises at the ground floor to be offset 200mm of the boundary.</td>
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<td></td>
<td>- Redesigned plantbox of Apt2.06 to be in align with its balcony.</td>
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<tr>
<td></td>
<td>- Minor internal layout changes of Apt2.01- Apt2.08.</td>
</tr>
<tr>
<td></td>
<td>- Reduction of the size of the proposed lift.</td>
</tr>
</tbody>
</table>
Third Floor
- Deletion of the plantbox to the west of the Stair area and Apt3.05.
- Deletion of the plantbox to the east of Apt3.02 and Apt3.04.
- Reduction of the size of proposed plantbox to align with the proposed balcony of Apt3.03.
- Deletion of the proposed skylight windows above the second floor corridor.

Roof Plan
- Deletion of the plant area and stair area.

Elevations and other plans
- Updated elevation design incorporating different materials and finishes to North and South Elevations.
- Updated west and east elevation plans in accordance with the above listed changes.
- Updated sections and landscape plans in accordance with the above listed changes.

5. Council Policy

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. Considerations

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (e.g. Westpoint Corporation P/L v Moreland CC [2005] and Oz Property Group P/L v Moonee Valley CC [2014]).

The tests include the following:

6.1. Does the proposed amendment result in a transformation of the proposal?

The amendment does not result in a transformation of the proposal. The amendment would provide for alterations to the building and landscaping of a generally minor nature. Importantly, the proposed deletion of the substation at the ground floor will be replaced by landscaping which is consistent with Council’s landscaping guidelines. In addition, the proposed deletion of the ‘Plant Boxes’ are largely due to them not being accessible. These ‘Plant Boxes’ will create unnecessary difficulties for maintenance in the future and the landscaping will not survive. Overall, the proposed provisions of landscape is considered acceptable.

The scale and height of the overall building will not change. The proposal does not alter the outcome related to site coverage, permeability, overlooking or overshadowing. From a neighbourhood character perspective, the proposal will still be an appropriate outcome.

The proposed change is considered to be minor in nature and will have no impact to the amenity of adjoining properties and will not cause material detriment to any third parties. The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for; and, does not result in a transformation of the proposal.
6.2 **Does the proposed amendment authorise something for which primary consent is required under the planning scheme?**

The primary consent was issued at the direction of VCAT for the use and development of a four storey building (plus basement car park) containing a retail premises and 22 dwellings, a reduction in the required car parking rate and a waiver of the loading and unloading of vehicles requirement. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

6.3 **Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?**

Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land. It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties.

6.4 **Is the proposed amendment contrary to a specific requirement or condition of the permit?**

The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit and remains compliant with the relevant objectives and standards of the Bayside Planning Scheme.

**Support Attachments**

1. Development plans
2. Site and Surrounds Imagery
3. Planning permit 2014/0921/1 and Endorsed Plans
Bayside City Council
Planning & Amenity Committee Meeting
- 17 October 2017

PROPOSED DEVELOPMENT AT 439 BAY STREET, BRIGHTON
TOWN PLANNING PACKAGE
SECONDARY CONSENT
DATE OF APPLICATION: 20.06.2017

TP000 PRELIMINARY
TP000 COVER SHEET

TP100 GENERAL FLOOR PLANS
TP1.02 BASEMENT PLAN
TP1.03 GROUND FLOOR PLAN
TP1.04 FIRST FLOOR PLAN
TP1.05 SECOND FLOOR PLAN
TP1.06 THIRD FLOOR PLAN
TP1.07 ROOF PLAN

TP200 ELEVATIONS
TP2.01 SOUTH ELEVATION
TP2.02 WEST ELEVATION
TP2.03 NORTH ELEVATION
TP2.04 EAST ELEVATION

TP300 SECTIONS
TP3.01 SECTION A-A
TP3.02 SECTION 9-B
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2. View of the subject site from the east.
Figure 3. View of the subject site from the west.
Item 4.7 – Matters of Decision
15 February 2016

Contour Consultants Aus Pty Ltd
P O Box 1040
CARLTON 3053

Dear Sir/Madam,

Application Number: 2014/921/1
Address: 439 Bay Street BRIGHTON
Proposal: Use and development of a four storey building (plus basement car park) containing a retail premises and 22 dwellings, a reduction in the required car parking ratio and a waiver of the loading and unloading of vehicles requirement

Further to the Tribunal’s decision and pursuant to Section 87A of the Planning & Environment Act 1987, the above permit is now issued subject to the conditions set out.

Please submit the information required by condition 1 of the planning permit as soon as possible.

The use and development must be carried out in accordance with this permit. Failure to do so will breach the Planning Scheme provisions and this permit. Council must approve any changes to your plans or permit. Council looks forward to your co-operation in this matter.

Should you have any further queries, please contact the Council’s Planning Officer:

Hew Gerrard
Email: enquiries@bayside.vic.gov.au
Telephone: 9599 4383

Please quote planning application 2014/921 – 439 Bay Street BRIGHTON in all correspondence / emails.

Yours faithfully

STATUTORY PLANNING DEPARTMENT

Enc.
PLANNING PERMIT
2014/921/1

Address Of The Land: No. 439 Bay Street BRIGHTON

The Permit Allows:
Use and development of a four storey building (plus basement car park) containing a retail premises and 22 dwellings, a reduction in the required car parking rate and a waiver of the loading and unloading of vehicles requirement in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   a) Treatment of the eastern elevation of the retail premises.
   b) A minimum 2m wide canopy provided over the retail premise frontage.
   c) The east facing habitable room window of the 68.3m² dwelling at Level 1 to be setback a minimum 3m from the eastern boundary.
   d) The east facing habitable room window of the 65.7m² dwelling at Level 2 to be setback a minimum 3m from the eastern boundary.
   e) Obscure glazing provided to a height of 1.7m above finished floor level to the north facing windows of the northernmost dwelling on Level 1.
   f) Screening in accordance with Standard B22 of Clause 55.04-6 provided to the balcony of the northernmost dwelling on Level 1.
   g) Screening in accordance with Standard B22 of Clause 55.04-6 provided to the balcony of the west facing dwelling on Level 2.
   h) The east-west running planter boxes provided at the northern end of Level 1 and Level 2 increased in width to 1.1m.
   i) Two visitor car parking spaces provided on site generally in accordance with plan TP1.03 Rev. B dated 3/7/2015, project no. 214103 and drawn by Rothe Lowman Architects.

Date issued: 1 October 2015

Date Amended: 10 February 2016

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority
j) The provision of a south facing window from the bedroom of the dwelling located in the
south-east corner of Level 2.

k) All private open space areas provided with a minimum area of 8m² and minimum depth
of 8m².

l) A landscape plan in accordance with Condition 12 of this planning permit

2. The development as shown on the endorsed plans must not be altered without the written
consent of the Responsible Authority.

3. Prior to the commencement of development, construction drawings must be submitted to
and be approved by the Responsible Authority showing the laneway connecting the subject
site to Warriston Street in accordance with Council standards. Once approved, all works
required to upgrade this laneway to Council standards must be undertaken by the permit
holder at no cost to Council prior to the use and/or occupation of the development.

4. No plant, equipment, services or architectural features other than those shown on the
endorsed plans are permitted above the roof level of the building(s) without the written
consent of the Responsible Authority.

5. The walls on the boundary of the adjoining properties shall be cleaned and finished to the
satisfaction of the Responsible Authority.

6. No signage is permitted along the eastern elevation of the building unless with the written
consent of the Responsible Authority.

7. Bicycles must at all times be allowed to be wheeled through the corridor area between the lift
and the car park and be allowed to be taken within the lift.

8. Before the use and/or occupation of the site commences or by such later date as is
approved in writing by the responsible authority, all buildings and works and the conditions of
this permit must be carried out and completed to the satisfaction of the Responsible Authority.

9. The car stackers to be installed are a Woehr Comblift 543-2,0 Standard Type unless with the
written consent of the Responsible Authority. The car stackers must be maintained in good
working condition to the satisfaction of the Responsible Authority.

10. The amenity of the area must not be detrimentally affected by the use or development, by
the:
    a) Transport of materials, goods or commodities to or from the land;
    b) Appearance of any building, works or materials;
    c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot,
ash, dust, waste water, waste products, grit or oil;

Date issued: 1 October 2015

Date Amended: 10 February 2016

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority
d) Presence of vermin;
e) By other circumstances.

11. Before the development starts, a Tree Management Plan must be submitted to and be approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must provide details on how excavation impacts on trees to be retained will be managed and shall utilise information provided in both the arborist report and landscape plan to ensure retained trees are not lost as a result of construction works on the subject site to the satisfaction of the Responsible Authority.

12. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

The landscaping plan must show:
a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
c) Details of water sensitive urban design elements to be incorporated and the plant species to be used.
d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

All species selected must be to the satisfaction of the Responsible Authority.

13. Before the use/occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

14. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

15. Prior to the commencement of any works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The construction management plan must address, but is not limited to:
a) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints;

Date issued: 1 October 2015

Date Amended: 10 February 2016

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority
All traffic management plans for the site demolition, excavation, deliveries and other construction related activities that will affect vehicle and pedestrian traffic;

The location of all areas on-and/or off-site to be used for construction staff parking;

A parking management plan for all associated construction vehicles;

All site sheds, portable toilet, storage and materials, etc. must be confined to the site;

The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises;

A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways;

No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;

All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;

The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site; and

No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system.

All works must accord with the approved Construction Management Plan to the satisfaction of the Responsible Authority.

Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be;

- Constructed;
- Properly formed to such levels that they can be used in accordance with the plans;
- Surfaced with an all-weather-seal coat;
- Drained;
- Line marked to indicate each car space and all access lanes; and
- Clearly marked to show the direction of traffic along access lanes and driveways.

To the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.
17. Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the responsible authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

18. The applicant must apply for the nominated legal point of discharge for the development where stormwater run-off must be collected and free drained to Council's drainage assets to Council standards.

19. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff at 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

20. Any subsurface water captured on the site must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basement or Below Ground Structures". Any seepage / agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain /Pit and not be discharged to the kerb and channel unless directed otherwise.

21. The legal point of discharge for the development is to the east of the property and must be connected to the existing pit at the corner of Bay Street and Warrist Street via a new outfall drain and pit(s) at the cost of the permit holder and be to Council standards and be approved by Council.

22. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:  
   a) A trench grate (150mm minimum internal width) located within the property; and/or  
   b) Shaping the driveway so that water is collected in a grated pit on the property; and/or  
   c) Another Council approved equivalent.

23. Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council's Engineering Services department for approval.

24. The driveway / parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.
25. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to above if a request is made in writing:
   ➢ Before the permit expires; or
   ➢ Within 6 months afterwards if development has not commenced; or
   ➢ Within 12 months afterwards if the development has lawfully commenced.

Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 February 2016</td>
<td>As directed by VCAT, the following modifications have been made:</td>
</tr>
<tr>
<td></td>
<td>a. Condition 1b) is amended to read:</td>
</tr>
<tr>
<td></td>
<td>1b) treatment of the eastern elevation of the retail premises.</td>
</tr>
<tr>
<td></td>
<td>b. Conditions 1a), 1k) and 1n) are deleted; and</td>
</tr>
<tr>
<td></td>
<td>c. The conditions are renumbered accordingly.</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.
FORM 4

PLANNING PERMIT

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The Responsible Authority has issued a permit.
(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.)

WHEN DOES A PERMIT BEGIN?
A permit operates:
* from the date specified in the permit; or
* if no date is specified, from—
  (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal;
or
  (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?
1. A permit for the development of land expires if—
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
2. A permit for the use of land expires if—
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision—
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?
* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must also be served on the Responsible Authority.
* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
4.8 6 - 8 SPINK STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/813/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/215482

1. Purpose and background
To report a planning permit application for the use and development of a three storey building for accommodation and an education facility, a reduction in the provision of car parking and the display of advertising signage (refer application plans at Attachment 1) on a lot size of 495 square metres at 6-8 Spink Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>14 December 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>3 April 2017</td>
</tr>
</tbody>
</table>

The development more specifically comprises:

An education facility and associated residential accommodation

It is proposed to use the site as an education centre and provide associated residential accommodation. A Business Modelling Summary was provided with and formed part of the public notification material. Key details as follows:

- The residential accommodation will include international high school aged students (15 – 18 years of age), whom are unlikely to speak English as their first language. The applicant advises, “the boarding house will offer a safe, secure and welcoming environment for international students to learn about the Australian culture, English language and build lasting cross-cultural friendships”.

- The education centre component of the proposal will implement the English Language Intensive Courses for Overseas Students (ELICOS) program for students under 18 years of age. Although primarily run for students living within the residential component, the program will also accept approximately 20 external students.

- An evening curfew will be implemented for students accommodated within the residential component, of 9:00pm on school nights and 10:00pm on weekends. Alternative hours can be agreed upon given consent is provided by a guardian.

- At maximum capacity, the residential component will accommodate 48 students (68 students when inclusive of external students).

- A maximum of five staff members will be on the premises at any one time, inclusive of one receptionist / administrator, three carers (shift work) who will also live on site for the duration of the school term and three full time teachers, instructing the ELICOS program.

- The carers will be responsible for supervising the children, ensuring the curfew is honoured and providing meals and assistance when required.

Built Form
The key features of the proposed building are as follows:

- A three storey built form, constructed to all boundaries of the subject site and reaching a maximum height of 10.5 metres. The building has been designed to step back from the rear laneway and residential interface.
• The façade of the development has been designed to reflect the Aboriginal heritage of the subject site and the wider area, and incorporates a combination of glazing and metal cladding.

• The basement level will be utilised only by those accommodated within the residential component and will provide recreational spaces as well as general living facilities. A storage and locker room is provided on this level, as well as a laundry, kitchen and dining area, games room, music room, toilets and courtyard area.

• Pedestrian access to the site is provided at ground level via Spink Street. This level also contains a reception area, three classrooms, an office space, toilet facilities and a bin storage area.

• Seven car parking spaces (stacker system) are located at ground level and are accessible via the rear laneway connecting Spink Street and Rose Street. Six bicycle spaces are also provided at this level.

• Level 1 comprises a combination of accommodation and recreational spaces. A student ‘play area’ is located at the western aspect of the building fronting Spink Street, with a non-trafficable rock garden functioning as a lightwell located midway along the common boundary to 2 - 4 Spink Street and No. 1A Rose Street.

• Eight bedrooms, each with beds for 2 – 4 students are located at Level 1, along with shared bathrooms / ensuites. This level will accommodate 24 students in total, a separate bedroom and bathroom is provided for a staff member / carer.

• Level 2 of the development primarily functions as accommodation for the boarding house component of the proposal. This level will contain seven separate bedrooms, each with beds for 2 – 4 students and respective bathroom / ensuite facilities. This level will accommodate 23 students in total, with a separate bedroom and bathroom provided for a staff member.

• A terrace is proposed at Level 2 of the building, providing private open space to students, teachers and carers within the facility.

• A void to the courtyard below, measuring 3 metres wide by 10.1 metres long, is provided midway along the northern boundary to No. 10 Spink Street at first and second levels of the proposed development.

• All levels of the building are accessible via a staircase and a lift to ensure those with limited mobility are able to access all components of the building.

Signage

One internally illuminated sign is proposed for business identification purposes as part of this application. It will measure approximately 2.8 metres long by 0.5 metres high and will be positioned above the entrance to the building at Level 2 of the proposed building.

2. Policy implications

Planning permit requirements

• Clause 34.01-1 (Commercial 1 Zone) – Use of the land for accommodation.

• Clause 34.04-4 (Commercial 1 Zone) – Construction of a building and works in the Commercial 1 Zone.

• Clause 52.05-7 (Advertising Signage) - To erect and display signage within a Category 1 - Commercial Area.

• Clause 52.06 (Car parking) - To reduce the car parking requirements

It is noted the proposed education facility component of the application does not require a permit as this use is as of right (Section 1 Use) in the Commercial 1 Zone.
Planning scheme amendments

The exhibition period for Amendment C152 (Martin Street Structure Plan) finished on 16 January 2017. Council considered the submissions and determined at its Council meeting on 28 March 2017 to request the Minister for Planning to appoint a Planning Panel to consider the submissions received for Amendment C152 in accordance with Section 23(1)(b) of the Planning and Environment Act 1987. A Directions Hearing occurred on 20 April 2017 with a Panel Hearing on 29 May 2017. The Panel Report was received by Council on 9 August 2017 and is currently being considered by Council.

Pursuant to Section 60 (1A) (eb) (g) of the Planning and Environment Act 1987 before deciding on an application, “the responsible authority must consider… any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council.”

Council adopted the Martin Street Structure Plan at its Council Meeting March 2016. Therefore the objectives, guidelines, requirements and vision of the Structure Plan must be considered as part of any planning application in the Martin Street Activity Centre.

Amendment C152 is in the middle stages of the Planning Scheme Amendment process. Therefore, the proposed planning controls, specifically DDO18 and GRZ9, do not yet hold any statutory weight and the current Planning Scheme requirements should be applied to any planning application made within the Martin Street Activity Centre. However, some regard will need to be given to the vision, objectives and strategies of Martin Street Structure Plan as this document has been adopted by Council.

Amendment C152 seeks to introduce DDO18 to the Martin Street Activity and replace the existing NRZ3 with a GRZ9.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Transport Victoria</td>
<td>No objection.</td>
</tr>
</tbody>
</table>

Internal referrals

The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Officer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and seven objections were received. The following concerns were raised:

- Car parking and access including use of laneway;
- Bicycle parking;
- Development density;
- Overlooking;
- Overshadowing;
- Noise;
- Equitable development;
- Façade treatments;
- Demolition works;
- Social issues associated with the accommodation proposal; and
- Effect on property values.

**Consultation meeting**

A consultation meeting was held on 31 May 2017 attended by the permit applicant, architect, traffic engineer and six objectors. As a result of this meeting no objections were withdrawn.

Notwithstanding this, as a result of the discussions at the consultation meeting the applicant has circulated draft amended plans to Council and all objectors on 29 August 2017, refer to Attachment 3. The plans propose changes which restrict the intensity of the use and alter the built form to minimise visual and amenity impacts to adjoining properties. The proposed changes include the following:

- Student age will be capped at 17 years.
- Provision of one additional car parking space to be provided in a stacker configuration to provide a total of eight spaces.
- Education centre will no longer accept external students (i.e. a reduction of 20 students from the original proposal = 48 in total). The car parking provided on site is for staff only seeing as all students accepted will be capped at 17 years of age.
- Removal of the south facing open terrace on Level 2 and replacement with a north-west facing balcony at Level 1. The space which was previously occupied by the terrace will now be converted to a non-trafficable roof area. The built form will not encroach into this area providing an approximate setback of 4.5m setback from southern properties.
- Frosted glazing and fixed screen louvers provided to south facing windows to prevent all overlooking into the kitchen and living areas of the dwellings to the south.
- East facing windows screened up to 1.7m high to prevent overlooking to rear yard of No. 1 Rose Street.
- Waste and loading (food deliveries etc.) reconfigured to occur at the rear of the building. This will prevent bins being left on Rose Street for collection. All waste collection and loading will now occur on site and will occur out of peak hours by a private contractor.
- Increase in the number of bicycle spaces provided (now 13 – up from 6), to be provided in the basement.

The draft amended plans demonstrate how the above changes are incorporated into the development and deal with the issues that were raised through the public consultation process. These plans have not been formally amended but have included as conditions should a permit issue.
4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 6-8 Spink Street, Brighton, for the use and development of a three storey building for accommodation and an education facility, a reduction in the provision of car parking and the display of advertising signage in accordance with the draft amended plans prepared by KUD Architects 16-009 Town Planning Drawing Set TP00 to TP29 Inclusive Council date stamped 29 August 2017 and subject to the following conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with draft amended plans prepared by KUD Architects 16-009 Town Planning Drawing Set TP00 to TP29 Inclusive Council date stamped 29 August 2017 but modified to show:

   a) Bedrooms 4 and 12 to be provided with a window facing the internal courtyard. The windows must be screened in accordance with Standard B22, Overlooking and Standard B23 Internal Views of the Bayside Planning Scheme.

   b) A window to the stairwell associated with Level 1 and to be appropriately screened in accordance with Standard B22, Overlooking and Standard B23 Internal Views of the Bayside Planning Scheme.

   c) Four bicycle parking space to be located at ground level and in a convenient location in accordance with Clause 52.34.

   d) The signage to be relocated from level 2 to ground floor level, over the entry door to Spink Street.

   e) The ‘darker’ colour palettes depicted in the architectural drawing package titled ‘Aboriginal Art Inspiration’ to be incorporated into the circular façade design.

   f) The northern side elevation (incorporating walls to level 1 play area and level 2 bedroom 8, bathroom and stairwell) to be articulated with the ‘Aboriginal Art Inspiration’ referenced at Condition 1(e).

   g) The Fibre Cement Sheet façade treatment to the north, south and east elevations to be replaced by recycled red bricks to complement the existing materials found within the area.

   h) The circular façade finishes at ground floor level to be increased in height where it conceals the windows to classroom 1.

   i) A veranda feature over the entry door, projecting approximately 500mm from the front façade. The veranda must be complementary to the façade design.

   j) Location of all plant and equipment, including hot water services and air conditioners etc.

   k) Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

   l) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
m) The recommendations of the Noise Impact Assessment prepared by Octave Acoustics, Noise and Vibration (8 February 2017) to be shown.

n) A scaled drawing of the signage clearly dimensions. Details of supporting structure and fixture and lighting must be detailed.

o) A Waste Management Plan in accordance with Condition 31.

p) Landscaping plan in accordance with Condition 32.

q) Water Sensitive Urban Design measures in accordance with Condition 36. All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the use and occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. All plant and equipment to be located away from habitable room windows of the dwellings and the adjoining properties habitable rooms.

5. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

6. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building without the written consent of the Responsible Authority.

7. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

8. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

9. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

10. The exterior colour and cladding of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.

Hours of Operation

11. The classes use may operate between the hours of (8.00 am-5.00pm Monday to Friday inclusive) without the prior written consent of the Responsible Authority.

12. An evening curfew for students of 9:00pm on school nights and 10:00pm on weekends. Alternative hours may be agreed upon given consent is provided by a guardian.

13. The Level 1 terrace area is not be accessed after 9.00pm every night.

Student and Staff Numbers

14. Not more than 48 students may be present on the premises at any one time without the prior written consent of the Responsible Authority.

15. A maximum of five (5) staff members will be on the premises at any one time, inclusive of one (1) receptionist / administrator, three (3) carers (shift work) who will also live on site for the duration of the school term and three (3) full time
teachers, instructing the ELICOS program.

Use

16. The education centre component must only implement the English Language Intensive Courses for Overseas Students (ELICOS) program for students under 17 years of age. The program must not accept any external students.

Advertising Signs

17. The location and details of the sign, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.

18. All signs must be located wholly within the boundaries of the land.

19. The sign must not contain any flashing light.

20. The sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

21. The design and construction of the sign must not allow movement of the sign or any part of the sign.

22. The sign must not use traffic signal colours.

23. The sign must be constructed and maintained to the satisfaction of the Responsible Authority.

Noise

24. Noise emanating from the subject land must not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels (from the plant and equipment area, mechanical car stackers, any bells associated with the classes, waste collection and motors associated with the illuminate sign) must be completed prior to the commencement of the use and occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

25. The recommendations of the Noise Impact Assessment prepared by Octave Acoustics, Noise and Vibration (8 February 2017) must be completed prior to the commencement of the use and occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

26. At the request of the Responsible Authority, the owner/occupier must undertake noise measurements by a suitably qualified acoustic consultant and a report must be submitted to the Responsible Authority for compliance in relation to the N-1 policies and/or EPA Technical Guidelines.

27. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.

28. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.

Car Parking

29. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

30. The mechanical stackers must be kept in good working order to the satisfaction
of the Responsible Authority to ensure access to all car spaces is available at all times and to prevent adverse noise emissions.

**Waste Management**

31. Before the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must generally be in accordance with the Waste Management Plan prepared by Leigh Design and dated 1 December 2016 and clearly indicate that waste collection is to be via a private contractor, not Council, and include:

a) Dimensions of storage waste areas.

b) Storm water drains in storage areas should be fitted with a litter trap.

c) The number and size of bins to be provided.

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

f) Types of waste for collection, including colour coding and labelling of bins.

g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

j) Sufficient headroom within the basement to accommodate waste collection vehicles.

k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.

l) Strategies for how the generation of waste and recyclables will be minimised.

m) Compliance with relevant policy, legislation and guidelines.

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

**Landscaping**

32. Before the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the draft amended plans prepared by KUD Architects 16-009 Town Planning Drawing Set TP00 to TP29 Inclusive Council date stamped 29 August 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.

b) A planting schedule of all proposed vegetation, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. The planting schedule must be is sympathetic to stated objectives of the building design; including species emblematic of Australian and Chinese cultures.

c) Details of soil volumes to be used in planter boxes, irrigation and tree / shrub anchorage systems.
d) Vegetation in the planter boxes, adjacent to the Spink Street frontage, must be of sufficient size to be visible over the façade.

33. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

34. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

35. Before the development starts tree protection fencing is to be established around the street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

**Water Sensitive Urban Design**

36. Before the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design stormwater treatment measures to be used.

   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.

   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

   These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

**Drainage**

37. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

38. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

**Development Contributions**

39. Prior to endorsement of the plans required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

   The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.
Construction Management Plan

40. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

a) A detailed schedule of works including a full project timing.

b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.

c) The location for the parking of all construction vehicles and construction worker vehicles during construction.

d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.

e) Proposed traffic management signage indicating any inconvenience generated by construction.

f) Fully detailed plan indicating where construction hoardings would be located.

g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.

h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.

m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.


q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.

r) Details of crane activities, if any.

Development and Use Expiry

41. This permit will expire if one of the following circumstances applies:
a) The development is not started within two years of the date of this permit.
b) The development is not completed within four years of the date of this permit.
c) The use is not started within five years of the date of this permit.
d) The use is discontinued for a period of two years or more.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**Signage Expiry**

42. This permit expires 15 years from the date of issue.

**Permit notes**

- A permit must be obtained from Council for all vehicular crossings.
- These must be constructed under Council’s supervision for which 24 hours notice is required.
- Council must be notified of the vehicular crossing and reinstatement works.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- The existing street tree/s must not be removed or damaged.
- Unless a permit is not required under the Bayside Planning Scheme, signs must not be constructed or displayed without a further planning permit.

5. **Council Policy**

Council Plan 2017-2021

Relevant strategies of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.
Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas (Martin Street Neighbourhood Activity Centre)
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Clause 52.05 Advertising Signs
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 65 Decision Guidelines

6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. Amendment C152 (Martin Street Structure Plan)

Amendment C152 is currently progressing through the Planning Scheme Amendment process. Therefore, the proposed planning controls, specifically DDO18 and GRZ9, do not yet hold any statutory weight and the current Planning Scheme requirements should be applied to any planning application made within the Martin Street Activity Centre. However, some regard will need to be given to the vision, objectives and strategies of Martin Street Structure Plan as this document has been adopted by Council.

The proposed development is located in Precinct C of the DDO18 proposed for the Martin Street Activity Centre. This precinct has a discretionary height of 3 storeys and front setback requirement of 3 metre setback for 3 storeys and above. The height of the development is 3 storeys and therefore complies with DDO18. No setback has been provided at the third storey but this is considered satisfactory for the reasons outlined in Section 6.4 of this report.

The DDO also calls for a roof deck or balcony in a commercial area to be set back at least 2 metres from the wall of the storey below which faces the front or the rear of the site, or a minimum of 5 metres from any residential property boundary. The proposed terrace area at level one not proposed to be setback 2 metres but is considered acceptable as it provides for activation to Spink Street and continues the street wall also advocated for in this policy.

The site abuts a ‘key laneway’, which has been identified as laneway that should be
widened to 5.5m as part of redevelopment. Policy notes that there is potential for existing laneways to be better utilised for circulation and parking access with upgraded lighting and street treatment to create inviting and safe spaces. Given the abutting development at 1A Rose Street is already constructed to the title boundary, the proposal is not considered to be fatal to this preferred outcome. It is noted that the property immediately to the north at 10 Spink Street is also constructed to the laneway boundary.

Further to this the development is considered to incorporate signage within this area does not detract from the appearance or character of the area. This is discussed later in detail at Section 6.9 of this report.

6.2. **Strategic Planning**

Local Policy at Clause 21.10-1 specifically seeks to ensure there is adequate infrastructure to facilitate community and educational facilities within the Bayside area. Objective 1 of this policy seeks to, “To provide high quality public and private community facilities and services based on the needs and expectations of all age groups, including those with limited mobility and special needs”.

The proposed development is considered to result in a net community benefit, improving quality education facilities available within the municipality. The development will further support existing schools within the municipality affording Bayside students the opportunity to build relationships with international students.

Clause 19.02-2 (Education Facilities) seeks to ensure the integration of new facilities into local communities, in areas that are highly accessible to public transport within or adjacent to activity centres and Clause 19.02-3 (Cultural Facilities) aims to develop a strong cultural environment and increase access to cultural facilities, particularly within activity centres. The proposed development is considered to satisfy both of these objectives and provides for a centre which promotes educational and cultural resources.

The proposal to redevelop the site is commendable for providing an education facility and accommodation together in an activity centre. The scale and design of the building is an appropriate response to the context of the site and policy for activity centres. The form of the building is discussed in further detail at Section 6.4 of this report but it is noted its architectural quality is considered to incorporate a building of high design quality that contributes to the urban fabric.

The development will contribute to the economic viability of the centre by increasing the local population. The accommodation provided will provide a means of supporting the viability of a walkable catchment for the local traders and will improve liveability for residents by providing a number of amenities (shops, cafés and public transport) that can be reached on foot.

In summary, the development will allow redevelopment of the site providing educational and employment opportunities, effectively contributing to diversification, investment and employment growth within the area.

6.3. **Uses**

Pursuant to Clause 34.01-, Commercial 1 Zone, an education centre such does not require a planning permit.

The residential component requires a planning permit within a Commercial 1 Zone. The proposed use for a residential building is considered acceptable and as outlined in the Strategic assessment at Section 6.2 of this report. The site is located within an area where denser development in close proximity to services is advocated by policy. Further to this the proposed use is not considered to result in any unreasonable amenity impacts to adjoining sensitive land uses. The use includes an evening curfew for students of 9.00pm during weeknights and 10.00pm at weekends unless otherwise agreed by a guardian. Access to the Level 1 terrace area will be restricted after 9.00pm each day and on-site carers will ensure these restrictions are implemented as per Conditions 12
and 13 of the Recommendation.

6.4. Built Form

The proposed three storey development stands to an overall height of 10.5 metres and is considered to sit comfortably adjacent to the adjoining three storey residential and office development to the south at 2 - 4 Spink Street and 1A Rose Street.

The development introduces a high level of contemporary architectural quality and adopts a site specific design. The applicant has advised, “The design and materiality of the building façade has drawn inspiration from Aboriginal artwork, as a signal to the original custodians of the land and the site’s location within an area of identified Aboriginal Cultural Heritage Significance”. The front façade introduces a perforated façade with circular elements. It is noted that the building presentation is reflective of the end use as an educational facility, particularly one that will teach international students of, “the cultural history and significance of Australia and its indigenous antiquity”.

Whilst acknowledging the architectural merits of the façade articulation, it is considered the colour, finishes, window proportions, verandas, entry and wall articulation presents a stark contrast from the materials found within the streetscape and adopted by adjoining properties. It is recommended that a darker palette of finishes, whilst maintaining inspiration from Aboriginal artwork, is adopted. The colour palettes and designs depicted in ‘Aboriginal Art Inspiration’ detailed in the architectural drawings at Attachment 3 are incorporated as conditions of permit. These ‘darker’ shades will assist in making the building more complementary to the streetscape.

The development maintains a fine grain built form to provide for an educational centre and accommodation in an area which promotes a mix of retail and office spaces. The proposed built form is suitable to the character of Spink Street. The proposed development does not negatively affect accessibility, parking and amenity and sensitively addresses any potential amenity impacts such as overlooking and overshadowing as discussed at Section 6.5 of this report.

Although the site is located away from the primary retail frontages along Martin Street, ‘Secondary Frontages’ to Spink Street are encouraged to be active. The front façade is constructed to Spink Street at all levels and is well activated, particularly at ground floor level with the reception area and classroom providing transparency and surveillance to Spink Street. This active frontage will ensure that the centre continues to accommodate the type of uses which contribute to social interactions in the community and increased safety.

Whilst the adopted Structure Plan and draft DDO18 advocates for a 3 metre setback at second floor level in order to maintain the a ‘street wall’, the well-articulated façade and the circular design affords the built form to be setback from the most sensitive residences at 2 – 4 Spink Street, a three storey residential and office development. This design response will mitigate any perception of visual bulk.

The site is located adjacent to residential properties and whilst the uses and higher density development sit alongside residential areas which advocate for more modest opportunities for housing growth, the amended plans provide for a suitable transition adjacent to these sensitive interfaces. Importantly the built form maintains a human scale and reduces visual bulk, and ensures that the built form has appropriate setbacks. The development presents two portions of sheer walls adjacent to 10 Spink Street to the north. This however is considered acceptable and will facilitate future equitable development of this site.

Appropriate side and rear setbacks provide an acceptable transition from the activity centre to the adjoining low scale residential area and will limit visual bulk and amenity impacts on these dwellings. The provision of side and rear setbacks consistent with the requirements of Clause 55 and minimises the overshadowing impacts on adjoining properties and retains a sense of privacy for adjoining properties, particularly through the
provision of overlooking treatments in accordance with Standard B22.

Plainters have also been incorporated into the development to soften the build form when viewed from adjoining properties, planters further restrict downward looking views into habitable room windows and areas of secluded private open spaces of adjoining properties.

The parking areas have been located to the rear of the site, accessed via a laneway to ensure that car parking does not present to Spink Street which would fragment and degrade the street frontage. This is considered to be an improved design response from the current arrangements on site.

The proposed development is of a high architectural standard and will make a good fit within both the existing and preferred future character of the area.

6.5. **Amenity Impacts**

**Overlooking**

All habitable room windows within 9 metres of existing windows and private open space areas of the adjacent residential properties have been screened in accordance with Standard B22, Overlooking of Clause 55 of the bayside Planning Scheme.

The draft amended plans respond to previous overlooking concerns.

**Solar Access**

It is noted that the areas of private open spaces associated with the apartment development to the south are north facing and the proposed development incorporates a light court mid-way along the southern façade at Levels 1 and 2. This facilitates a reasonable level of solar access to be provided to this area as demonstrated in the below Overshadowing assessment. Level 2 is setback between 4 metres and 4.5 metres from the common boundary to the south which allows adequate solar access to the existing north-facing habitable room windows of these properties.

**Overshadowing**

The submitted shadow diagrams comply with the requirements of Clause 55 and the secluded private open space located on adjacent land will receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

The shadow diagrams submitted by the applicant have been checked. Shadows cast by the development will be largely contained within the development site itself, or are cast onto adjoining existing boundary walls and fencing. Where additional overshadowing does result, sectional diagrams demonstrate additional overshadowing is marginal and occurs to the closest first floor level windows at 2-4 Spink Street and 1A Rose Street. The windows at second floor are unaffected.

The expected shadowing is within the requirements of Clause 55 of the Bayside Planning Scheme.

**Noise**

Concerns have been raised regarding noise associated with classes, music and the mechanical car stackers.

A Noise Impact Assessment prepared by Octave Acoustics, Noise and Vibration (8 February 2017) has been submitted to Council. The report demonstrates that noise to the closest abutting properties continue to allow for reasonable amenity in accordance with State Environment Protection Policy (Control of Noise from Industry, Commerce and Trade) No. N-1 (SEPP N-1) and Sleep Disturbance (based on Section 5.4 of the New South Wales Office of Environment and Heritage: Road Noise Policy, March 2011, in the absence of any dedicated policy in Victoria).

The report outlines recommendations in order to further mitigate against any noise which
have formed planning permit conditions. A further condition has been included to account for the additional car stacker associated with the draft amended plans (refer Attachment 3), any bells associated with classes at the education centre, waste collection and motors for the illuminated sign.

6.6. **Internal Amenity**

The development is accessed by a clearly legible point of entry from Spink Street with the entry providing an active surveillance and security for the staff and students.

The proposed development provides future occupants with a high level of amenity and includes a variety of room sizes including with beds for 2, 3 and 4 students. Each room is serviced by either an ensuite or in close proximity to shared bathroom facilities. Bedrooms 4 and 12 however do not appear to have any natural light or ventilation access. A condition of permit has been included to require windows to these rooms and appropriate screening. All other rooms have been provided with a high level of amenity for their end use.

Future students will also benefit from a high level of internal facilities including facilitates at basement level, a kitchen and meals area, sitting room space and play area at Level 1 and a further kitchen area at Level 2. It is noted these areas are open plan and their functionality can be easily adapted as required. Storage facilities for students are included within the bedrooms and at basement level for larger items of storage such as luggage etc.

Outdoor amenity takes the form of courtyard at basement level and a terrace area at level 1 with an outlook to Spink Street. The development is accessed at grade level and includes a lift which ensures accessibility for people of all abilities.

6.7. **Car Parking and Traffic**

**Car Parking**

The amended plans detail the provision of eight car parking spaces to be provide in car stackers located to the eastern property boundary and accessed off the rear laneway. Concerns have been raised regarding the use of car stackers but these are a recognised form of car parking used to meet car parking requirements and have been approved on numerous occasions by Council and the Victorian Civil Administrative Tribunal (VCAT). The applicant has submitted swept path diagrams demonstrating safe and convenient access to these spaces.

As all proposed 48 students will board at the facility and must study in the language school, this eliminates any need for the students to have access to private cars. It is noted the draft amended proposal now removes classes for external students and caps the student age at 17, the legal age for obtaining a driving licence. As the site is ideally located in close proximity to existing public transport infrastructure the students will not require any car parking spaces and the car parking demand will be restricted to staff members alone.

Class times are proposed between 8am - 5pm, Monday – Friday. During class times there will be a maximum of three teachers at any one time and two carers/reception staff on site while students are in class, one of the carers will take reception duty 8am-5pm. This equates to a maximum of five members of staff on site during class times. The proposal provides an overprovision of three car parking spaces associated with the maximum number of staff on site at any one time.

Outside of class times, only two carers will be onsite and they will live there during term-time. This equates to a maximum of two car parking spaces being required.

It is noted that Table 1 at Clause 52.06-5, Education Centre, requires a total of 0.4 spaces to be provided to each student but as there will be no student demand for spaces, an assessment against this provision is not included. Further, if the same car parking rates
were to apply for a Secondary School, 1.2 spaces per employee would be required. This would equate to a total of six car parking spaces based on a total number of five staff member being on site at any one time.

Access
The site has the benefit of a right-of-way over the laneway to the east of the subject site. This laneway is constructed, trafficable and approximately 3 metres wide. The laneway extends between Rose Street to the south and to the north forms a junction with another right-of-way providing rear access to Marin Street. Council’s Traffic Engineer has not raised any concerns regarding the use of this laneway.

Traffic
The proposed development is not considered to generate an unreasonable level of traffic within the surrounding road network. Traffic movements will likely be restricted to one in and one out but as two members of staff will reside on site this will equate to a total of three additional manoeuvres within the laneway which the swept path diagrams easily demonstrate can occur.

Bicycle Parking
A breakdown of the proposed bicycle parking requirements is detailed below:

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<thead>
<tr>
<th>Use</th>
<th>Quantity</th>
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<td>Residential Building</td>
<td>14 rooms</td>
<td>In developments of four or more storeys, 1 to each 10 lodging rooms</td>
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<tr>
<td></td>
<td></td>
<td>In developments of four or more storeys, 1 to each 10 lodging rooms</td>
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<tr>
<td>Education Centre</td>
<td>5 staff 48 students</td>
<td>1 to 20 employees 1 to each 20 full-time employees</td>
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<td><strong>TOTAL</strong></td>
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<td><strong>4.05</strong></td>
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Based on the draft amended plans and pursuant to Clause 52.34 Bicycle Facilities, a total of 4 bicycle spaces are required to be provided. The draft amended plans provide for 13 bicycle spaces provided at basement level. While an overprovision of bicycle parking has been provided, a condition has been included to require four of the spaces to be located at ground level and in a convenient location consistent with the requirements to Clause 52.34-4.

Waste Collection
The draft amended plans nominated waste and loading (food deliveries etc.) to occur at the rear of the building in a bid to prevent bins being left on Rose Street for collection. The applicant nominates that all waste collection and loading will now occur on site and will occur out of peak hours. Council has considered the on-site Waste Collection and notes that due to the width of the rear laneway it is unlikely that a waste collection vehicle can easily manoeuvre along the laneway.

Council considers the original Waste Management Plan which nominated a private waste contractor to collect waste in Rose Street. It is proposed that the collector’s assistant will
transfer the bins to the truck and back to the site’s access. The waste collections are nominated to be carried-out during off-peak traffic periods. The bin storage area will be located at ground level, behind the car stackers and will not be visible from the adjoining laneway.

6.8. **Vegetation & Landscaping**

There are no extant trees on the subject site and trees on neighbouring properties will not be adversely impacted. A basement courtyard will include vegetation and the use of planter boxes on the terrace (level 2) is supported. Conditions have been included to ensure vegetation within the courtyard and planters are of sufficient size to ensure visibility from the streetscape to assist in softening the built form, vegetation which is characteristic of Australian and Chinese cultures is required along with details on how the vegetation is to be maintained.

Tree Protection measures are included as recommended conditions to protect the street tree.

6.9. **Advertising Signage**

The proposed signage has been designed to ensure that signage in this commercial area does not detract from the appearance or character of the area, particularly as the proposal abuts residential properties. The sign respects the architecture style of its host building and as only one sign is proposed, the sign will not lead to visual clutter when read in conjunction with other signs within the streetscape, including road directional signage.

The sign will be displayed at level 2 and will be attached to the front façade. It is noted that the Materials Board included at Attachment 3 indicates the sign to be at ground floor level above the entry door. It is considered the sign above the entry door assists in improving the sense of address of the building and legibility within the streetscape. A condition has been included to require its relocation.

The sign will not compromise any important views from the public realm. Further, it is noted its scale and proportion are appropriate to its location and communicates the function of the building. All associated infrastructure has been concealed from the streetscape.

The plans provided do not detail the lux (light intensity) associated with the sign illumination but it noted that the applicant notes there will be no associated light spill. Whilst it is acknowledged the sign is directly opposite a railway corridor and public car parking conditions have been included to ensure the lighting is appropriately baffled and any associated structures are screened from view. Further to this any associated infrastructure is to be appropriately acoustically treated, if required.

6.10. **Area of Aboriginal Cultural Heritage Sensitivity**

The site is located within an area of cultural heritage sensitivity as described in the Aboriginal Heritage Regulations 2007. The subject site however does not require the submission of a Cultural Heritage Management Plan.

It is noted that the proposed development introduces aboriginal inspired architecture and vegetation conditions require the introduction of native species to the area.

6.11. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Demolition works**

The removal of asbestos is outside of the scope of the *Planning and Environment Act 1987* or the Bayside Planning Scheme. There is other legislation which administers the removal and handling of asbestos. The Occupational Health and Safety (Asbestos)
Regulations 2003 which apply in Victoria also have regulations regarding the handling and removal of asbestos. Other legislation including the Public Health and Wellbeing Act 2008 provides protection for neighbours during such works.

Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and not justification to withhold development of the site. A Construction Management Plan has been included as a condition of permit in order to minimise disruptions during this period.

Construction techniques and effects – noise, dust, stability of existing foundations and damage to nearby dwellings are not a consideration under the Planning & Environment Act or Bayside Planning Scheme.

**Development density**

The Bayside Planning Scheme and the Planning and Environment Act 1987 does not elaborate on the definition of what constitutes medium or high density housing. Rather, the suitability of the development with respect to density and height is determined by the design’s response to the site context, location and the relevant planning scheme objectives. This has been assessed throughout the report.

**Social issues associated with the accommodation proposal**

The development has been well designed providing street activation and the building design contributes to the streetscape and a sense of community and interaction between students. The accommodation allows students to learn the English Language and Australian Culture. There is no foundation to support this objection.

**Effect on property values**

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Bayside Planning Scheme.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Draft Amended Plans ↓
### 16-009 Town Planning Drawing Set

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This page contains an advertised plan for the Educational Centre Development at 6-8 Spink Street, Brighton. The project team includes KUD Architecture Interior Planning Urban Design Consultants, URBIS Planning Consultants, Yutong Architecture Designers, Traffic Group, and Siddall Design Consultants. The plan is designed to create an accessible and welcoming environment for the community.
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Figure 1. Aerial Overview of subject site and objector map. One additional objection has been received from outside the map boundaries.

Legend

<table>
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<th>Subject site</th>
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<td>Objectors</td>
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Figure 2. View looking south along Spink Street from the intersection with Martin Street.

Figure 3. View looking south-west towards public car parking with the rail corridor behind.
Figure 4. View looking south along Spink Street with ‘Sons of Mary’ café in the foreground at 14 Spink Street.

Figure 5. View looking east along the bluestone laneway running east between 10 and 14 Spink Street.
Figure 6. View looking south-east towards the subject site with 10 Spink Street in the foreground, 6 - 8 Spink Street and 2 - 4 Spink Street to the corner.

Figure 7. View looking east toward the subject site.
Figure 8. View looking east and north towards the subject site.
Figure 9. Views looking west along Rose Street with 2 - 4 Spink Street and 1A Rose Street in the foreground.

Figure 10. View looking north from Rose Street towards 1A Rose Street to the left of the photograph and 1 Rose Street to the right of the photograph.
Figure 11. View looking north along the access laneway with the rear of 6 - 8 Spink Street in the foreground.

Figure 12. View looking south along the laneway from the rear of 10 Spink Street.
Figure 13. View looking west along the bluestone laneway from the rear of 1 Rose Street towards Spink Street.
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
FACADE DESIGN RESPONSE

The emphasis of the design and the symbolism of the Aboriginal art is depicted throughout the proposed development, with the east facade facing Main Street being the prominent feature.

The building is designed with a contemporary philosophy that combines the symbolism of Aboriginal art and the cutting edge technologies associated with China.

This collaboration comes through in the perforated facade which is a series of overlapping concentric circles which is inspired by the roodels used in the Aboriginal art. The facade combines two layers of perforation which creates a more effect through producing different visual perceptions internally and externally during the day and night.

The external facade can be experienced internally and is also a multi-faceted device that constantly transforms the built form from solid to void, from private to public and from opaque to translucent.
Item 4.8 – Matters of Decision
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5. Confidential Business

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Adrian Robb

Chief Executive Officer